

1927

c 224 Railway Act

Ontario

© Queen's Printer for Ontario, 1927

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Railway Act, RSO 1927, c 224

Repository Citation

Ontario (1927) "c 224 Railway Act," *Ontario: Revised Statutes*: Vol. 1927: Iss. 2, Article 97.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1927/iss2/97>

CHAPTER 224.

The Railway Act.

INTERPRETATION.

1. In this Act, and in any special Act, in so far as this Act applies thereto,— Interpretation.

- (a) "Board" shall mean The Ontario Railway and Municipal Board; "Board."
- (b) "By-law," when referring to an act of the company, shall include a resolution; "By-law."
- (c) "Company" shall mean a railway, street railway or incline railway company, and shall include every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway; "Company."
- (d) "Costs" shall include fees, counsel fees, and expenses; "Costs."
- (e) "County" shall include district; "County."
- (f) "Express toll" shall mean any toll, rate or charge to be charged by the company, or any person or corporation other than the company, to any persons, for hire or otherwise, for or in connection with the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, or for any service incidental thereto, or for or in connection with any or either of these objects where the whole or any portion of the carriage or transportation of such goods is by rail upon the railway of the company; "Express toll."
- (g) "Goods" shall include personal property of every description that may be conveyed upon the railway, or upon steam or other vessels connected with the railway; "Goods."
- (h) "Highway" shall include a public road, street, lane, or other public way or communication; "Highway."

"Inspecting
engineer."

(i) "Inspecting engineer" shall mean an engineer who is directed by the Board to examine a railway or works, and shall include two or more engineers when two or more are so directed;

"Judge."

(j) "Judge" shall mean a Judge of the Supreme Court or of a county or district court, as the case may be;

"Land."

(k) "Land" shall mean the land, the acquiring, taking, or using of which is authorized by this or by the special Act, and shall include real estate and an easement over or privilege in respect of, and any interest in land;

"Lease."

(l) "Lease" shall include an agreement for a lease;

"Owner."

(m) "Owner," where, under this Act or the special Act, any notice is required to be given to the owner of land, or where any act is authorized or required to be done with the consent of the owner, shall mean the person who, under this Act or the special Act, or any Act incorporated therewith, is enabled to sell and convey the land to the company, and shall include a mortgagee of the land;

"Plan."

(n) "Plan" shall mean a ground plan of the land and property taken or intended to be taken;

"Railway."

(o) "Railway" shall mean any railway which the company has authority to construct or operate, and shall include all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property, real or personal, and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;

"Registrar."

(p) "Registrar of deeds" or "Registrar" shall include the master of titles, or local master of titles, or other officer with whom the title to the land is registered;

"Registry
Office."

(q) "Registry office" or other words descriptive of the office of the registrar of deeds, shall include the land titles office or other office in which the title to the land is registered;

"Rolling
stock."

(r) "Rolling stock" shall mean and include any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;

"Secretary."

(s) "Secretary" shall mean the secretary of the Board;

"Special
Act."

(t) "Special Act" shall mean any Act authorizing the construction of or otherwise specially relating to

a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated;

- (u) "Street railway" shall mean a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right of way owned by the company, under the powers conferred by section 243, and shall include all portions of the railway within the city or town and for a distance of not more than one and one-half miles beyond the limits thereof, although such one and one-half miles may be constructed under a by-law of or agreement with a municipal corporation other than that of such city or town, and shall also include any part of an electric railway which lies within the limits of a city or town and is constructed or operated along and upon a highway;
- (v) "Toll" or "Rate" shall mean and include any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and shall include also any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, express or implied, with respect to the use thereof; and shall include also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping-cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigeration, icing, heating, switching, ferriage, cartage, storage, care, handling or delivery of or in respect of goods transported, or in transit, or to be transported; and shall include also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage or the like, or so charged or made in connection with any one or more of the above-mentioned objects separately or conjointly;
- (w) "Traffic" shall mean the traffic of passengers, goods and rolling stock;

"Train."

(x) "Train" shall include any engine, motor car or other rolling stock;

"Under-taking."

(y) "Undertaking" shall mean the railway and works of every description which the company has authority to construct or operate; R.S.O. 1914, c. 185, s. 2, (a-y).

"Working expenditure."

(z) "Working expenditure" shall mean and include

- (i) all expenses of maintenance of the railway;
- (ii) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock, let to the company, or in respect of property leased to or held by the company, apart from the rent of any leased line;
- (iii) all rent charges or interest on the purchase money of land belonging to the company purchased but not paid for or not fully paid for;
- (iv) all expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company;
- (v) all rates, taxes and insurance and compensation for accidents or losses;
- (vi) all sums payable, under any Act of this Legislature, to workmen or their dependents as compensation for injuries sustained or industrial diseases contracted in the course of their employment;
- (vii) all salaries and wages of persons employed in and about the working of the railway and traffic;
- (viii) all office and management expenses, including directors' fees, and agency, legal, and other like expenses;
- (ix) all costs and expenses of and incidental to the compliance by the company with any order of the Board; and
- (x) generally, all such charges, if any, not hereinbefore otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account. R.S.O. 1914, c. 185, s. 2 (z); 1916, c. 31, s. 10.

APPLICATION OF ACT.

2. This Act shall, unless otherwise expressed, apply to all railways, other than Government railways, and when so expressed, and not otherwise, to street railways and incline railways howsoever incorporated, and whether operated by steam, electricity or other motive power, and whether constructed on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be deemed to be incorporated and shall be construed, as one Act, with the special Act, subject as herein provided. R.S.O. 1914, c. 185, s. 3.

3.—(1) The provisions of this Act in respect of tolls, tariffs and joint tariffs shall, so far as they are applicable, extend to the traffic carried by any company by water, between any ports or places in Ontario, if the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any such ports or places.

(2) The provisions of this Act in respect of tolls shall, in so far as they are applicable, extend and apply to

(a) any company which has power under any special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway; and

(b) the traffic so carried over, upon or through such structure. R.S.O. 1914, c. 185, s. 4.

4. Any section of this Act may, by the special Act, be excepted from incorporation therewith, or may thereby be extended, limited or qualified, and it shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely. R.S.O. 1914, c. 185, s. 5.

5. If in any special Act heretofore passed it is enacted that any provision of *The Railway Act of Ontario*, *The Electric Railway Act*, *The Street Railway Act* or *The Ontario Railway Act, 1906*, in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified in like manner; and, unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any general Act, and the sections expressly made applicable shall apply to every street railway company so incorporated,

Conflict between this Act and special Act.

but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act. R.S.O. 1914, c. 185, s. 6.

What sections to apply to street railway companies,

6.—(1) Sections 7 to 51, 53 to 58, 65 to 67, 97, 103, 105, 110, 111, 116, 117, 129, 143, 147, 148, 154, 156, 162, 163, to 172, 175, 176, 210, 226, 227, 266 to 268, 274 to 282, 286 to 301, 303 and 304, shall apply to street railway companies. R.S.O. 1914, c. 185, s. 7 (1).

or to incline railways.

(2) Sections 7 to 51, 53 to 58, 97, 103, 110, 111, 120, 129, 143, 147, 162, 177, 219, 236 to 238, 240, 258, 266 to 268, 274 to 282, 286 to 301 and 304, shall apply to incline railways. R.S.O. 1914, c. 185, s. 7 (2); 1924, c. 51, s. 2.

ORGANIZATION OF THE COMPANY.

Offices.

Head office.

7. The head office of the company shall be at the place designated in the special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice whereof shall be given to the secretary of the Board who shall keep a register for the purpose of recording all changes so notified. R.S.O. 1914, c. 185, s. 8.

Change of location.

Provisional Directors.

Provisional directors.

8.—(1) The persons mentioned by name as such in the special Act shall be the provisional directors of the company, and a majority of them shall be a quorum, and they shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions for shares, and receive payments on account thereof, and make calls upon subscribers in respect of their shares, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking, and enter into any agreement authorized by this Act or by the special Act, with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof, and cause plans and surveys to be made, and shall deposit in a chartered bank of Canada, having an office in Ontario, all money received by them, which shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Quorum.

Powers.

Deposit of money.

Changes in board of provisional directors.

(2) The provisional directors may add to their number, or substitute for any member, whether named in the special Act, or by the said provisional directors, who may desire to resign or withdraw, any other person as a provisional director.

(3) If more than the whole stock has been subscribed the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking; and in such allocation and apportionment they may exclude any one or more of the subscribers, if, in their judgment, such exclusion will best secure the building of the railway.

Allotment
of stock.

Power of
exclusion.

(4) All meetings of the provisional directors shall be held at the head office of the company or at such other place in Ontario as may, in their opinion, best suit the interests of the company.

Meetings.

(5) No subscription for shares shall be binding on the company unless approved by resolution of the provisional directors or of the directors, nor unless ten per centum of the amount subscribed has been actually paid within one month after subscription. R.S.O. 1914, c. 185, s. 9.

When sub-
scription for
stock to be
binding.

Capital.

9.—(1) The capital stock of the company, the amount of which shall be stated in the special Act, shall be divided into shares of \$100 each; and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the special Act, and for making the surveys, plans and estimates of the works authorized by the special Act; and the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway and other purposes of the undertaking.

Capital stock
and shares.

Application
of proceeds.

(2) So soon as twenty-five per centum of the capital stock is subscribed and ten per centum paid thereon into a chartered bank of Canada, having an office in Ontario, to the credit of the company, the provisional directors, or a majority of them, shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice by advertisement in the *Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the meeting.

Calling first
meeting for
election of
directors.

Notice.

(3) If the provisional directors neglect to call such meeting, for three months after twenty-five per centum of the capital stock shall have been subscribed and ten per centum thereof paid up, the same may be called by any five of the subscribers who have so paid up ten per centum and who collectively have subscribed for not less than twenty-five shares of the capital stock and who have paid up all calls thereon.

When sub-
scribers may
call first
general
meeting.

(4) At such general meeting the shareholders present, either in person or by proxy, who shall at the opening of such meeting have paid up ten per centum on the shares subscribed

First elec-
tion of
directors.

by them, shall elect directors, in manner and qualified as hereinafter mentioned, who shall constitute the board of directors and shall hold office until the next general annual meeting. R.S.O. 1914, c. 185, s. 10.

Increase of capital stock.

10.—(1) The capital stock of the company may, with the approval of the Board, be increased, from time to time, to any amount, if

Approval by shareholders.

(a) such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose; and

Entry of proceedings in minutes.

(b) the proceedings of such meeting have been entered in the minutes of the proceedings of the company.

Notice of meeting and object.

(2) Notice in writing, stating the time, place and object of such meeting, and the amount of the proposed increase, shall be given to each shareholder, at least twenty days previously to such meeting, by delivering the notice to the shareholder personally, or depositing the same in the post office, post paid and properly directed to the shareholder.

Fees on such applications.

(3) Such fees as may be prescribed in the case of other companies shall be payable in respect of applications to the Board for its approval of the increase of the capital stock of the company. R.S.O. 1914, c. 185, s. 11.

General Meetings.

Annual meetings.

11.—(1) A general meeting of the shareholders for the election of directors and for the transaction of other business connected with or incident to the undertaking, to be called "the annual meeting," shall be held annually on the day mentioned in the special Act, or on such day as may be fixed for that purpose by the by-laws of the company; and other general meetings, to be called "special meetings," may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene such special meeting, for twenty-one days thereafter fail to call such meeting.

Place of annual meetings.

(2) The annual meetings shall be held at the head office of the company.

Place of special general meetings.

(3) Special general meetings may be held at such places in Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company. R.S.O. 1914, c. 185, s. 12.

Notice of meetings.

12.—(1) Two weeks' notice of any meeting of the shareholders shall be given by advertisement once in each week for two successive weeks in at least one newspaper published in the place where the head office is situate.

(2) The notice shall specify the place and the day and the hour of the meeting; and a copy of the newspaper containing the notice shall be evidence of the publication. R.S.O. 1914, c. 185, s. 13. Contents.
Evidence.

13.—(1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as by this Act is required to be transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice by which it is convened. What business may be transacted.
Exception.

(2) At any meeting of the shareholders every shareholder shall be entitled to as many votes as he holds shares in the company upon which all calls due have been paid. Votes according to shares.

(3) Every shareholder may vote by proxy if such proxy produces from his constituent an appointment in writing in the words or to the effect following,— Privilege to vote by proxy.

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____, to be my proxy, and in my absence to vote for me or give my assent to any business, matter or thing relating to the undertaking of the _____ that is mentioned or proposed at any meeting of the shareholders of the company, in such manner as he thinks proper. Form of proxy.

In witness whereof, I have hereunto set my hand and seal, the day of _____, 19 ____.

(4) A vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder; and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes; and all decisions and acts of any such majority shall bind the company and be deemed the decisions and acts of the company. R.S.O. 1914, c. 185, s. 14. Qualification of proxy.
Majority to govern.

14. A copy of the minutes of proceedings and resolutions of the shareholders of the company at any annual or special meeting, or of the minutes of proceedings and resolutions of the directors at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be a true copy extracted from such minute book and purporting to be sealed with the company's seal shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions. R.S.O. 1914, c. 185, s. 15. Evidence of minutes, etc

15. All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company. R.S.O. 1914, c. 185, s. 16. Effect of notices by secretary.

Powers and Duties of Directors.

Election of
board of
directors.

16.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting, and if such election is not held on the day appointed therefor the directors shall cause such election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed.

Time.

Who entitled
to vote.

(2) No person shall be admitted to vote at such special meeting unless he would have been entitled to vote had the election been held on the day on which it ought to have been held.

Vacancies.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws.

Qualification
of directors.

(4) No person shall be a director unless he is a shareholder, owning at least ten shares absolutely in his own right, and qualified to vote for directors at the election at which he is chosen.

When
majority to
be British
subjects.

(5) If the company has received aid towards the construction of its railway or undertaking, or any part thereof, from the Government of Ontario, under any Act of this Legislature, a majority of its directors shall be British subjects.

Term of
office of
directors.

(6) The directors appointed at the last election or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors.

When
directors
may fill
vacancies.

(7) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

When no
quorum.

(8) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

When no
directors.

(9) If there are no directors remaining in office a meeting to elect directors may be called without service of any requisition.

President.

(10) The directors shall, at their first or at some other meeting after the election, elect one of their number to be the president of the company who shall, when present, be the chairman at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead; and they may in like manner elect a vice-president who shall act as chairman in the absence of the president.

Vice-
president.

(11) The directors, at any meeting at which not less than ^{Powers of} a quorum are present, shall be competent to use and exercise ^{quorum.} all and any of the powers vested in the directors.

(12) The act of a majority of a quorum of the directors ^{Powers of} present at any meeting regularly held shall be deemed the ^{majority} act of the directors. ^{of quorum.}

(13) No director shall have more than one vote at any ^{Casting vote.} meeting, except the chairman, who shall, in case of a division of equal numbers, have the casting vote. R.S.O. 1914, c. 185, s. 17.

17. The directors shall be subject to the control of the ^{Submission} shareholders at their annual meetings, and to all by-laws of ^{of directors} the company, and to the orders and directions from time ^{to control} to time made at the annual or at any special meetings, such ^{of share-} orders and directions not being contrary to any express direc- ^{holders and} tions or provisions of this Act or the special Act. R.S.O. 1914, ^{to by-laws.} c. 185, s. 18.

18.—(1) No person concerned or interested in any con- ^{Contractors} tract under or with the company, or being surety for any ^{with com-} contractor, shall be capable of being chosen a director, or of ^{pany not} holding or continuing in the office of director or provisional ^{to be} director, nor shall any person being a director or provisional ^{directors.} director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company.

(2) If any such contract is made by or on behalf of any ^{Liability of} director or provisional director or promoter an action shall ^{person} lie against him at the suit of any shareholder or of the cor- ^{offending.} poration of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract. R.S.O. 1914, c. 185, s. 19.

19.—(1) The directors may make rules, regulations and ^{Power of} by-laws, not inconsistent with this Act, for the management ^{directors to} and disposition of the shares, property, business and affairs ^{make} of the company, and for the appointment of all officers, ser- ^{regulations.} vants and artificers, and for prescribing their duties and salaries.

(2) The directors may also employ and pay one of their ^{Manager.} number as managing director. R.S.O. 1914, c. 185, s. 20.

20. The directors may appoint such officers as they deem ^{Appointment} requisite, and shall take sufficient security from the manager ^{of officers.} and officers for the safe keeping and accounting by them of

the money raised by virtue of this Act and the special Act, and for the faithful execution of their offices. R.S.O. 1914, c. 185, s. 21.

Retirement
of officers,
etc.

21. The directors may by by-law or resolution provide for the retirement of any of the company's officers and servants, on such terms as to an annual allowance or otherwise, as the directors, in the interest of the company's service and under the circumstances, consider just and reasonable. R.S.O. 1914, c. 185, s. 22.

Remunera-
tion of
directors.

22. The directors may be paid such reasonable remuneration for their services as may be sanctioned by the shareholders by resolution passed at the annual general meeting to be held for the purpose of electing the successors of such directors. R.S.O. 1914, c. 185, s. 23.

Acting
president.

23. In case of the absence or illness of the president, the vice-president, and in case of the absence or illness of the president and vice-president, a director appointed by the directors for that purpose shall have all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company or by this Act, are required to be signed, performed or done by the president. R.S.O. 1914, c. 185, s. 24.

Noting
absence of
president, etc
in minutes.

24. The directors may at any meeting require the secretary to enter a note of such absence or illness upon the minutes of the meeting, and a certificate thereof signed by the secretary shall be delivered to any person requiring the same on payment of \$1, and such certificate shall be *prima facie* evidence of such absence, or illness at and during the period mentioned in the certificate. R.S.O. 1914, c. 185, s. 25.

Evidence.

Accounts.

25. The directors shall cause to be kept, and, annually on the 31st day of December, shall cause to be made up and balanced a true, exact and particular account of all money received by the company, or by the directors or manager thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company. R.S.O. 1914, c. 185, s. 26.

Calls.

Calls.

26.—(1) The directors may from time to time make such calls, not exceeding ten per centum of the amount subscribed, upon the shareholders, in respect of the amount of capital

respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call; and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act; but nothing herein shall prevent the directors from making more than one call by one resolution if the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given. Notice.

(2) All notices of calls shall be published in the *Ontario Gazette*. Publication.

(3) Every shareholder shall be liable to pay the amount of the call to the persons and at the times and places from time to time appointed by the company or the directors. Liability for payment of calls.

(4) Interest shall accrue upon the amount of any unpaid call from the day appointed for the payment thereof to the time of the actual payment. Interest on unpaid calls.

(5) In an action to recover money due upon a call it shall be sufficient to state that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, stating the number and amount of each call, whereby an action has accrued to the company by virtue of the special Act. R.S.O. 1914, c. 185, s. 27. That allegations necessary in actions for calls.

Shares and Their Transfer.

27.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as, by this Act, the special Act, the letters patent, supplementary letters patent or by-laws of the company, may be prescribed. Shares to be deemed personal estate, how transferable.

(2) Subject to subsection 1 no by-law shall be passed which in any way restricts the rights of a holder of paid up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. R.S.O. 1914, c. 185, s. 28. No restrictions upon transfer of paid-up shares.

28. No transfer of shares, the whole amount whereof has not been paid up, shall be made without the consent of the directors. R.S.O. 1914, c. 185, s. 29. Transfer of shares not paid up.

29. If any share is transmitted by the death, bankruptcy, or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such Transmission of shares, other than by transfer, provided for.

share is so transmitted shall deposit in the office of the company a statement, in writing signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary and until that has been done such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof. R.S.O. 1914, c. 185, s. 30.

Company
not bound
to see to
execution
of trusts.

30. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which the share may be subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the names of more persons than one, the receipt of one of the persons named in the register of shareholders, shall be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company has had notice of the trust; and the company shall not be bound to see to the application of the money paid upon such receipt. R.S.O. 1914, c. 185, s. 31.

Prima facie
evidence of
title.

31. The certificate of proprietorship of a share shall be *prima facie* evidence of the title of the person named therein, his executors, administrators, successors or assigns, to such share. R.S.O. 1914, c. 185, s. 32.

Non-pay-
ment of
calls.

Forfeiture.

32.—(1) Every shareholder who makes default in the payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company his shares in the company and all the profit and benefit thereof.

When
forfeiture
enforceable.

(2) No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred. R.S.O. 1914, c. 185, s. 33.

Effect of
forfeiture.

33. Every shareholder so forfeiting shall be by such forfeiture, relieved from liability in all actions, suits or prosecutions whatsoever which may be commenced or prosecuted against him for any breach of the contract existing between such shareholder and the other shareholders by reason of such shareholder having subscribed for or become the holder of the shares so forfeited. R.S.O. 1914, c. 185, s. 34.

Sale of
forfeited
shares.

34.—(1) The directors may, subject as hereinafter provided, sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor

having been first given by the shareholders, either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting.

(2) The directors shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture. Limitation.

(3) If the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and the sale of such shares, the surplus shall, on demand, be paid to the defaulter. Surplus proceeds to defaulter.

(4) If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share shall revert to the person to whom it belonged before such forfeiture, who shall be entitled thereto as if such calls had been duly paid. Payment of arrears before sale.

(5) Any shareholder may purchase any forfeited share so sold. R.S.O. 1914, c. 185, s. 35. Who may purchase.

35.—(1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call, and that such share has been purchased by a purchaser therein named shall, together with the receipt of the treasurer of the company for the price of such share, constitute a good title thereto. Certificate of treasurer to constitute title.

(2) Such certificate shall be registered by the treasurer in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books to be kept by the company, and such purchaser shall thereupon be deemed to be the holder of such share. To be registered.

(3) The purchaser shall not be bound to see to the application of the purchase money. Purchase money.

(4) The title of the purchaser to such share shall not be affected by any irregularity in the proceedings in reference to such sale. R.S.O. 1914, c. 185, s. 36. Irregularity.

36.—(1) A shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares beyond the sums actually called for, may pay the same to the company. Right to pay in advance of calls.

(2) Upon the principal money so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such Interest on advance made by shareholder to company.

advance is made, the company may pay interest, at such rate as the shareholders who pay such sum in advance and the company agree upon.

Condition.

(3) Such interest shall not be paid out of the capital subscribed. R.S.O. 1914, c. 185, s. 37.

Shareholders.

Extent of
shareholders'
liability.

37. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up; but no action shall be instituted or maintained against any shareholder in respect of such liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. R.S.O. 1914, c. 185, s. 38.

Account of
names and
residence
of share-
holders to
be kept.

38. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of or entitled to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being and such account shall be open to the inspection of the shareholders. R.S.O. 1914, c. 185, s. 39.

And of all
proceedings.

Rights of
aliens or
non-residents

39. All shareholders in the company, whether British subjects or aliens, or resident in Ontario or elsewhere, shall have equal rights to hold stock in the company, and to vote on the same, and, subject as herein provided, shall be eligible to office in the company. R.S.O. 1914, c. 185, s. 40.

Preference Stock.

By-law
for issuing.

40.—(1) The directors may pass by-laws for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

Special
rights of
preference
share-
holders.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

Unanimous
sanction
required.

(3) Subject to subsection 4 no such by-law shall have any force or effect until it has been unanimously sanctioned by a vote of the shareholders present, in person or by proxy, at a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company.

(4) If the by-law is sanctioned by three-fourths in value of the shareholders the company may apply to the Board for an order approving the by-law, and the Board may approve thereof and from the date of such approval the by-law shall be valid and may be acted upon. Approval of Board.

(5) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders, except that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law. Rights and liabilities of preference shareholders.

(6) Nothing in this section or done in pursuance of it shall affect or impair the rights of creditors of the company. Rights of creditors preserved. R.S.O. 1914, c. 185, s. 41.

Dividends and Interest.

41. Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. Declaration of dividends. R.S.O. 1914, c. 185, s. 42.

42.—(1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval. Reserve fund.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the special Act as they select. Investment of same. R.S.O. 1914, c. 185, s. 43.

43. No dividend shall be

- (a) declared whereby the capital of the company is in any degree reduced or impaired; or Dividend not to impair capital, etc.
- (b) paid out of such capital; or
- (c) paid in respect of any share after a day appointed for payment of any call in respect thereof, until such call has been paid, Calls to be paid.

but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest, at any rate not exceeding five per centum per annum, on all sums actually paid in cash in respect of the shares, from the respective days on which the same have been paid; and such Interest may be paid on calls pending opening of road.

interest shall accrue and be paid at such time and places as the directors appoint for that purpose. R.S.O. 1914, c. 185, s. 44.

None on
calls in
arrear.

44. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. R.S.O. 1914, c. 185, s. 45.

Deduction
of arrears
or calls
from divi-
dends.

45. The directors may deduct from any dividend payable to any shareholder all or any such sum or sums of money as are due from him to the company on account of any call or otherwise. R.S.O. 1914, c. 185, s. 46.

Bonds, Mortgages, and Borrowing Powers.—Foreclosure.
See section 137 of R.S.C. cap. 37.

When
issue of
securities
authorized.

46.—(1) The directors, under the authority of the shareholders, given at a special meeting called for the purpose or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting, whether annual or special, shareholders representing at least two thirds in value of the subscribed stock of the company and who have paid all calls due thereon are present in person or represented by proxy, may, subject to the provisions in this Act and the special Act contained, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved; and such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere as the directors think proper, and may bear such rate of interest per annum as may be approved by the Board. R.S.O. 1914, c. 185, s. 47 (1); 1922, c. 66, s. 2.

Presence of
shareholders.

When and
where pay-
able.

Interest.

Limit of
bonding
powers.

(2) Such securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed.

Raising
money on
securities.

(3) The directors may, for the purpose of raising money for prosecuting the undertaking, issue and sell or pledge all or any of such securities.

Denomina-
tions.

(4) No such security shall be for a less sum than \$100.

Continuance
of right to
issue
securities.

(5) The power of issuing securities conferred by this or the special Act shall not be exhausted by any issue; but may be exercised from time to time upon the securities constituting the issue being withdrawn or paid off and duly cancelled; but in no case shall the limit fixed in the special Act be exceeded. R.S.O. 1914, c. 185, s. 47 (2-5).

Limit.

47.—(1) The company may secure such bonds, debentures, debenture stock or other securities, by a deed creating such mortgage, charge or incumbrance upon the whole of such property, assets, rents and revenues of the company, present or future or both, as are described in the deed; but the same shall be subject in the first instance to the payment of any penalty imposed for non-compliance with the requirements of this Act and next to the payment of the working expenditure of the railway.

Mortgages securing bonds, etc.
How ranked.

(2) By the deed the company may grant to the holders of such securities, or the trustees named in the deed, the powers, rights and remedies granted by this Act in respect of such securities, and all other powers, rights and remedies, not inconsistent with this Act, or may restrict the holders in the exercise of any power, privileges or remedy granted by this Act, and all the powers, rights and remedies so provided for shall be valid and binding and available to the holders in manner and form as therein provided.

Powers conferred on holders.

(3) The company may except from the operation of any such deed any property, assets, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections or portions of the railway or property of the company, but where any such exception is made, the company shall in such deed expressly specify and describe, with sufficient particularity to identify the same, the property, assets, rents or revenue of the company, or the sections or portions of the railway not intended to be included therein or conveyed thereby.

Exception of part of assets.
Must be specified.

(4) Every such deed, and every assignment thereof or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in the *Ontario Gazette*; and such deed or other instrument need not be registered under the provisions of any law respecting registration of instruments affecting real or personal property.

Mortgage to be deposited with the Board and notice given.

(5) A copy of any such deed or instrument so deposited and certified to be a true copy by the Secretary, shall be *prima facie* evidence of the original without proof of the signature of such official. R.S.O. 1914, c. 185, s. 48.

Evidence.

48.—(1) Subject as hereinbefore provided to the payment of penalties, and to the working expenditure of the railway and to any restriction or exception contained in the deed, the securities hereby authorized to be issued shall be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired.

Effect of securities as a preferential charge.

Holders
ranked
pro rata.

(2) Each holder of such securities shall be deemed to be a mortgagee or incumbrancer upon the securities, *pro rata* with all the other holders, but no proceeding authorized by law or by this Act, shall be taken to enforce payment of such securities or of the interest thereon except through the trustee or trustees appointed by or under the deed. R.S.O. 1914, c. 185, s. 49.

Rights of
holders of
securities
upon default
in payment.

49.—(1) If the company makes default in paying the principal of or interest on any of such securities, at the time when the same becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of securities so being and remaining in default shall, in respect thereof, have the same rights and privileges and qualifications for being elected directors and for voting at general meetings as would attach to them as shareholders if they held fully paid up shares of the company to a corresponding amount.

Right of
holders
to vote
at meetings,—
how de-
termined.

(2) Each such holder shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation to the amount of such securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder; but no person who is not himself a holder of such security or a shareholder in the company shall be qualified to be appointed a proxy.

Proxies.

Limitation
of right of
voting.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the deed, nor unless the security in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered, at least ten days before he attempts to exercise the right of voting thereon; and the company shall be bound on demand to register such securities, and thereafter any transfers thereof in the same manner as shares or transfers of shares.

Other rights
under mort-
gage deed
preserved.

(4) The exercise of the rights given by this section shall not take away, limit or restrict any other of the rights or remedies to which the holders of the securities are entitled under the provisions of the deed. R.S.O. 1914, c. 185, s. 50.

Mode of
transfer of
securities.

50. All securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers, registered in the same manner as the transfers of shares. R.S.O. 1914, c. 185, s. 51.

As to deposit of mortgage to secure bonds covering rolling stock hired to company, see Bills of Sale and Chattel Mortgage Act, Rev. Stat. c. 164.)

51.—(1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, bill of exchange, warehouse receipt, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange. Borrowing money by overdraft or negotiable instrument.

(2) Every such note or bill made, drawn, accepted or endorsed, by the president or vice-president, or other officer authorized by the by-laws, and countersigned by the secretary, shall be binding on the company; and shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown. Binding nature of instrument. Presumption.

(3) It shall not be necessary to have the seal of the company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer so authorized be individually responsible for the same, unless such promissory note or bill of exchange has been issued without proper authority. No seal necessary.

(4) Nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank. R.S.O. 1914, c. 185, s. 52. Notes not to be payable to bearer.

52.—(1) In this section

Interpretation.

(a) "Purchaser" shall include a mortgagee or his assigns who has obtained title by foreclosure; "Purchaser."

(b) "Conveyance" shall include a judgment or order for foreclosure. "Conveyance."

(2) Every mortgage heretofore or hereafter made by a railway, electric railway, street railway or incline railway company may be enforced by judgment for foreclosure or sale in the same manner and to the same extent as such mortgage could be so enforced if the same had been made by a company not incorporated for any public purpose. Enforcing mortgages.

(3) If a railway, electric railway, street railway or incline railway, or any section thereof is sold under the provisions of any deed or mortgage, or at the instance of the holders of any mortgage, bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate such railway, electric railway or street railway, or incline railway until authority therefor has been obtained as in this section provided. Purchaser without corporate powers to obtain authority to operate.

(4) The purchaser shall transmit to the Provincial Secretary an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway, electric railway, street railway or incline railway pur- Application to Provincial Secretary by purchaser.

chased, specifying the charter or special Act under which the same was constructed and operated, and requesting authority to run and operate the same, and shall, with such application, transmit a copy of any writing preliminary to the conveyance of such railway, electric railway, street railway, or incline railway, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of such railway, electric railway, street railway or incline railway, and such further details and information as the Provincial Secretary may require.

Interim
authoriza-
tion by
Provincial
Secretary.

(5) Upon any such application, the Provincial Secretary may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of this Legislature, subject to such terms and conditions as the Provincial Secretary may deem expedient.

How far
purchaser
thereupon
authorized
to operate
railway.

(6) The purchaser shall thereupon be authorized, for such period only and subject to such order, to operate such railway, electric railway, street railway, or incline railway, and to take and receive such tolls in respect of traffic carried thereon as the company previously owning and operating the same was authorized to take, and the purchaser shall also be subject to the terms and conditions of the charter or special Act of the said company in so far as the same can be made applicable.

Application
to Legis-
lature.

(7) Such purchaser shall apply to this Legislature at the next following session thereof after the granting of such order by the Provincial Secretary, for an Act of incorporation or other legislative authority, to hold, operate and run the railway.

One
extension
allowed.

(8) If such application is made and is unsuccessful the Provincial Secretary may extend the order to run and operate the railway until the end of the then next following session of this Legislature, and no longer.

Closing
of road.

(9) If, during such extended period, the purchaser does not obtain such Act of incorporation or other legislative authority such railway shall be closed or otherwise dealt with by the Provincial Secretary as may be determined by the Lieutenant-Governor in Council. R.S.O. 1914, c. 185, s. 53.

POWERS.

General Powers.

Of com-
pany.

53. The company may, for the purposes of the undertaking, subject to the provisions in this and the special Act contained,

- (a) enter into and upon any land of any person whomsoever lying in the intended route or line of the railway, and make surveys, examinations or other necessary arrangements on such land for fixing the site of the railway, and set out and ascertain such parts of the land as are necessary and proper for the railway; Entry upon land. Surveys.
- (b) receive, take and hold, all voluntary grants and donations of land or other property or any bonus of money or debentures, or other benefit of any sort made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway; but the same shall be held and used for the purpose of such grants or donations only; Receive grants and bonuses.
- (c) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of any land or property of the company which for any reason has become not necessary for the purposes of the railway; Acquire property. Dispose of property not required.
- (d) make, carry or place the railway across or upon the land of any person on the located line of the railway; Placing of railway.
- (e) cross any railway, or join the railway with any other railway at any point on its route, and upon the land of such other railway, with the necessary conveniences for the purposes of such connection, and the owners of both railways may unite in forming such intersection and grant the facilities therefor; and the amount of compensation to be made therefor, the point and manner of such crossing and connection shall be determined by the Board, as provided by this Act; Cross and connect with other railways.
- (f) make, complete, operate, alter and maintain the railway with one or more sets of rails or tracks, to be worked by the force or power of steam, electricity, or of the atmosphere, or by mechanical power, or any combination of them; Construction and operation of railway.
- (g) construct, erect, and maintain all necessary and convenient roads, buildings, stations, depots, wharfs, docks, elevators, and other structures, and construct, purchase and acquire stationary or locomotive engines, rolling stock, and other apparatus necessary for the accommodation and use of the traffic and business of the railway; Buildings, equipment, etc.

Branch railways.	(h) make branch railways, and manage the same, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for the railway;
Transport passengers and freight.	(i) take, transport, carry and convey persons and goods on the railway, and regulate the time and manner in which the same shall be transported, and the tolls to be charged therefor;
Remove trees.	(j) fell or remove any trees which stand within one hundred feet from either side of the right of way of the railway, or which are liable to fall across any railway track;
Make tunnels and other works.	(k) make or construct in, upon, across, under or over any railway, tramway, river, stream, watercourse, canal, or highway, which the railway intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences;
Divert highways and waterways.	(l) divert or alter, as well temporarily as permanently, the course of any such river, stream, watercourse, or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway;
Construct drains.	(m) make drains or conduits into, through or under any land adjoining the railway, for the purpose of conveying water from or to the railway;
Divert drains, pipes and wires.	(n) with the consent of the Board, after notice to any person interested, divert or alter the position of any water-pipe, gas-pipe, sewer, or drain, or any telegraph, telephone or electric lines, wires or poles;
Alter and substitute other works.	(o) with the consent of the Board, after notice to any person interested, from time to time alter, repair or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and
Other necessary acts.	(p) do all other acts necessary for the construction, maintenance and operation of the railway. R.S.O. 1914, c. 185, s. 54.

Navigable Waters.

Duty not to obstruct navigation.

54. No company shall cause any obstruction in, or impede the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across which its railway is carried. R.S.O. 1914, c. 185, s. 55.

55. No company shall run its trains over any canal or over any navigable water without having first laid, and without maintaining, such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. R.S.O. 1914, c. 185, s. 56.

Compensation.

56. The provisions for the ascertainment of compensation contained in clause (e) of section 53 shall not extend or apply to any railway incorporated under an Act of this Legislature when it is proposed that such railway shall cross, intersect, join, or unite with, or be crossed, intersected, joined or united with a railway within the legislative authority of the Parliament of Canada. R.S.O. 1914, c. 185, s. 57.

57. The company shall restore, as nearly as possible, to its former state any river, stream, watercourse, highway, water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. R.S.O. 1914, c. 185, s. 58.

58. The company shall, in the exercise of the powers by this or the special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the special Act provided, to all persons interested for all damage by them sustained by reason of the exercise of such powers. R.S.O. 1914, c. 185, s. 59.

Taking or using Land of Other Companies.

59.—(1) The company may take possession of, use or occupy any land belonging to any other railway company, use and enjoy the whole or any portion of the right of way, tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

(2) Such approval may be given upon application and notice, and, after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party as to it may appear just or desirable, having due regard to the public and all proper interests.

Compensation.

(3) If the companies fail to agree as to the compensation the Board may, by order, fix the amount of the compensation to be paid in respect of the powers and privileges so granted. R.S.O. 1914, c. 185, s. 60.

Public Land.

When and how far public lands, beaches, etc., may be occupied.

60.—(1) The company shall not take possession of, use or occupy any land belonging to Ontario without the consent of the Lieutenant-Governor in Council; but with such consent such company may take and appropriate for the use of its railway and works, but not alienate, so much of the wild lands lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its railway and works.

Limitation.

(2) The extent of the public beach or of the land covered with the water of any river or lake taken for the railway shall not exceed the quantity limited in section 80. R.S.O. 1914, c. 185, s. 61.

Telegraph, telephone and other lines.

Power to erect telegraph and telephone lines.

61.—(1) Except as provided in section 62 the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the railway or branches, and for the purpose of constructing, working and protecting such telegraph and telephone lines, the powers conferred upon telegraph companies by *The Telegraph Companies Act* are hereby conferred upon the company; but no poles shall be erected in the construction of such lines in or through any city, town or village except under an agreement with the corporation of such city, town or village, or in default of such agreement by leave of the Board and upon such terms and conditions as it may prescribe.

Rev. Stat. c. 220.

Limitation.

Use of lines.

(2) Such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company.

Other telephone systems, connections with.

(3) Where any municipal corporation or person has authority to construct, operate and maintain a telephone system in any locality, and is desirous of obtaining connection or communication with or within any station or premises of the company in such locality, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just, and

the Board may order and direct how, when, where, by whom Terms.
and upon what terms and conditions such connection or
communication shall be constructed, operated and maintained.

(4) Notwithstanding anything in any Act contained, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement now or hereafter in force by which the company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. R.S.O. 1914, c. 185, s. 62.

Contracts giving exclusive privileges not to be taken into consideration.

62.—(1) No lines or wires, for telegraphs, telephones or the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across a railway without the leave of the Board.

Wires, etc., across railway.

(2) Upon an application for such leave the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

Submission of plans to Board.

(3) The Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed.

Order by Board.

(4) Upon such order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

Erecting.

(5) An order of the Board shall not be required in cases in which wires or other conductors for the transmission of electrical energy are to be erected or maintained over or under a railway, or over or under wires or other conductors for the transmission of electrical energy, with the consent of the railway company or the company owning or controlling such last mentioned wires or conductors, in accordance with any general regulations, plans or specifications adopted or approved by the Board. R.S.O. 1914, c. 185, s. 63.

Order dispensed with where compliance with general regulations.

63. The Board shall prescribe rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no lines of such wires shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board, but in special cases, on the application of any person or corporation to be affected by such crossing, the Board may order that such crossing shall be made in some other manner than that prescribed by the standard plans and specifications. R.S.O. 1914, c. 185, s. 64.

General rules and regulations of Board.

Proviso.

Interchange of Traffic.

One com-
pany may
agree with
another re-
specting
traffic

64.—(1) The directors may, at any time and from time to time, make and enter into any agreement or arrangement, not inconsistent with this or the special Act, with any other company for the interchange of traffic between their railways or vessels and for the division and apportionment of tolls in respect of such traffic.

and agree-
ments for

(2) The directors may also make and enter into any agreement or arrangement, not inconsistent with the provisions of this or the special Act, for any term not exceeding twenty-one years,—

Running
powers.

(a) for the running of the trains of one company over the tracks of another company;

Division of
tolls.

(b) for the division and apportionment of tolls in respect of such traffic;

Manago-
ment and
working.

(c) generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith; and

Joint com-
mittee.

(d) providing, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient,

Conditions.

subject to the like consent of the shareholders, the sanction of the Board, application, notices and filing, as hereinafter provided with respect to amalgamation agreements, except that publication of notices in the *Ontario Gazette* shall be sufficient notice.

Board may
exempt
from con-
ditions.

(3) The Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions, with respect to any such agreement or arrangement made or entered into by the company for the transaction of its usual and ordinary business.

Saving.

(4) Neither the making of any such agreement or arrangement, nor anything therein contained, nor any approval thereof, shall restrict, limit, or affect any power by this Act vested in the Board or relieve the companies from complying with the provisions of this Act.

Penalty on
companies
or their
officers re-
fusing or
neglecting
to forward
traffic as
above
required.

(5) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined any passenger, goods or things, brought, conveyed or delivered to him or to such company for conveyance over

or along the railway from that of any other company intersecting or coming near to such first-mentioned railway, or in any way wilfully contravenes the provisions of the next preceding subsection, such first-mentioned railway company or such officer, servant or agent, personally, shall, for every such neglect or refusal, incur a penalty not exceeding \$50 and shall in addition be liable to the person aggrieved for the actual damages sustained by reason of such wrongful act. ^{Damages.}

(6) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board. ^{Board to determine.}

(7) All complaints made under this section shall be heard and determined by the Board. ^{Complaints.}

(8) This section shall apply to such street railways as may from time to time be determined by the Board. R.S.O. 1914, c. 185, s. 65. ^{Street railways.}

Amalgamation Agreements.

65.—(1) Where the company is authorized, by the special Act, to enter into an agreement with any other company for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from the company its railway and undertaking, in whole or in part, or for amalgamation, such agreement shall be first approved by two-thirds of the votes of the shareholders of each company, party thereto, at any annual general meeting, or at a special general meeting, of each company called for the purpose of considering such agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy. ^{Agreement for sale, lease or amalgamation of railway.}

(2) Upon such agreement being so approved and duly executed it shall be submitted to the Board for the sanction thereof. ^{Sanction of Board.}

(3) Notice of the proposed application for such sanction shall be published in the *Ontario Gazette* for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or districts through which the railway to be sold, leased or amalgamated runs in which a newspaper is published. ^{Publishing notice of application.}

(4) Upon such notice being given the Board shall grant or refuse the application, and upon such agreement being sanctioned it shall be filed in the office of the Board and thereupon shall come into force and effect, and notice thereof shall be forthwith given in the *Ontario Gazette*. ^{Action of Board. Proceedings upon sanction. Notice.}

Evidence
of compliance
with re-
quirements.

(5) The production of the *Ontario Gazette* containing such notice shall be *prima facie* evidence of the requirements of this section having been complied with. R.S.O. 1914, c. 185, s. 66.

Effect of
amalgama-
tion upon
properties,
powers and
liabilities.

66. Upon any agreement for amalgamation coming into effect, as provided in the last preceding section, the companies, parties to such agreement, shall, subject to the provisions of this Act and the special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company under the name and upon the terms and conditions in such agreement provided; and the amalgamated company shall possess and be vested with all the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties belonging to, possessed by, or vested in the companies, parties to such agreement, or to which they, or any or either of them, may be or become entitled; and shall be liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any or either of such companies was at or before the time when the amalgamation agreement came into effect. R.S.O. 1914, c. 185, s. 67.

Saving of
rights and
claims.

67.—(1) Notwithstanding anything in any agreement made or sanctioned under the provisions of the next preceding two sections, every act, matter or thing, done, effected or confirmed under or by virtue of this Act or the special Act, before the date of the coming into effect of such agreement, shall be as valid as if it had never come into effect; and such agreement shall be subject and without prejudice to every such act, matter or thing, and to all rights, liabilities, claims and demands, present or future, which would be incident to or consequent upon such act, matter or thing if such agreement had never come into effect.

Representa-
tion of
former
companies.

(2) In the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company shall for all purposes stand in the place of and represent the companies who are parties thereto; and the generality of the provisions of this section shall not be deemed to be restricted by any special Act, unless this section is expressly referred to in it and expressly limited or restricted thereby. R.S.O. 1914, c. 185, s. 68.

PLANS AND SURVEYS.

Map of
general
location
proposed.

68.—(1) The company shall prepare and submit to the Board a map showing the general location of the proposed line of the railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and such as may be within

a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Board may require.

(2) Such map shall be prepared upon a scale of not less ^{Scale.} than six miles to the inch, or upon such other appropriate scale as the Board may determine, and shall be accompanied by an application, stating the special Act authorizing the ^{Application.} construction of such railway, and requesting the Board's approval of the general location as shown on the map.

(3) Before approving such map and location the Board ^{Approval.} may, subject to the special Act, make such changes and alterations therein as it may deem expedient, and, upon being satisfied therewith, shall signify its approval upon the map. ^{Alterations.}

(4) The map when so approved and the application shall ^{Filing.} be filed with the Board.

(5) The Board in approving of any such map and loca- ^{Board} tion may approve the whole or any portion thereof, and where ^{may ap-} it approves only a portion thereof it shall signify its approval ^{prove whole} or portion. ^{or portion.} upon the map accordingly.

(6) The provisions of this section shall only apply to the ^{Application} main line, and to branch lines over six miles in length. ^{of section.} R.S.O. 1914, c. 185, s. 69.

69.—(1) Upon compliance with the provisions of the last ^{Plan, pro-} preceding section the company shall make a plan, profile ^{file and} and book of reference of the railway. ^{book of} ^{reference.}

(2) The plan shall show ^{Plan.}

(a) the right of way, with lengths of sections in miles;

(b) the names of terminal points;

(c) the station grounds;

(d) the property lines and owners' names;

(e) the areas and length and width of land proposed to be taken, in figures, stating every change of width;

(f) the bearings; and

(g) all open drains, watercourses, highways and rail-ways proposed to be crossed or affected.

(3) The profile shall show the grades, curves, highway and ^{Profile.} railway crossings, open drains and watercourses.

(4) The book of reference shall describe the portion of land ^{Book of} proposed to be taken in each lot to be traversed, giving ^{reference.} number of the lots, and the area, length and width of the portion of each lot proposed to be taken, and the names of the owners and occupiers so far as they can be ascertained.

Further information.

(5) The Board may require any additional information for the proper understanding of the plan and profile.

Sections.

(6) The plan, profile and book of reference may be of a section or sections of the railway. R.S.O. 1914, c. 185, s. 70.

Sanction by Board.

70.—(1) Such plan, profile and book of reference shall be submitted to the Board which, if satisfied therewith, may sanction the same.

Effect.

(2) The Board by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof as shown in such plan, profile and book of reference, but not to have relieved the company from otherwise complying with this Act.

Board may sanction deviation of 1 mile.

(3) The Board may sanction a deviation of not more than one mile from any one point on the general location approved under section 68.

Further information.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway the Board may require the company to submit the plan, profile and book of reference of the whole, or of any portion of the remainder of the railway, or such further or other information as the Board may deem expedient.

Time for acquiring land.

(5) In granting any such sanction the Board may fix a period (a) within which the company must acquire the land included in its right-of-way, or take the necessary steps for such purpose; or (b) within which the notices mentioned in section 89 shall be conclusively deemed to have been given; and in the event of the order granting such sanction, whether made before or after the passing of this Act, providing no such time limit, any owner or person interested in land included in the right of way, as shown by the plan, may apply to the Board for an order that the company shall acquire such lands or take the necessary steps for such purposes, within such time as the Board deems proper, and thereupon the Board may make such order in the premises as appears just. R.S.O. 1914, c. 185, s. 71.

For giving notice.

Deposit with Board.

71.—(1) The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and plans shall be numbered consecutively in the order of their deposit.

In registry offices.

(2) The company shall also deposit copies thereof, or of such parts thereof as relate to each county or district through which the railway is to pass, duly certified as copies by the secretary, in the offices of the registrars of deeds for such counties or districts. R.S.O. 1914, c. 185, s. 72.

Errors.

72. The railway may be made, carried or placed across or upon the land of any person on the located line, although through error or any other cause the name of such person has

not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such land. R.S.O. 1914, c. 185, s. 73.

73.—(1) Where any omission, misstatement or error is made in any plan, profile or book of reference so registered the company may apply to the Board for a certificate to correct the same. Corrections.
Procedure.

(2) The Board may require notice to be given to parties interested, and, if it appears to the Board that such omission, misstatement or error arose from mistake, may grant a certificate setting forth the nature of the omission, misstatement or error, and the correction allowed. Certificate
of correction.

(3) Upon the deposit of such certificate with the Board, and of copies thereof, certified as such by the Secretary, with the registrars of deeds of the counties or districts in which the lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may thereupon, subject to this Act, construct the railway in accordance with such correction. R.S.O. 1914, c. 185, s. 74. Deposit
of certificate
of correction.

74.—(1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof, and other documents required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited. Duties of
registrars
of deeds.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom, and copies thereof as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and ten cents for each copy made of any plan or profile. Extracts and
copies.
Fees.

(3) The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference, or document, so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with fifty cents for each certificate given by him. Certified
copies.
Fees.

(4) Such certificate shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of the original. Certificate
of registrar.

Documents deposited with registrar of deeds to be *prima facie* evidence.

(5) A copy of any plan, profile, book of reference, certified copy thereof, or other document, relating to the location or construction of any railway, and deposited, under the provisions of this Act, with the registrar of deeds of any district or county through which the railway passes, certified by such registrar, in the manner hereinafter required, to be a true copy, shall be *prima facie* evidence of the original so deposited, that such original was so deposited at the time certified thereon, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which such original purports to be signed, certified, attested or executed, as shown or appearing by such certified copy; and, in the case of a plan, that such plan is prepared according to a scale and in manner and form sanctioned by the Board. R.S.O. 1914, c. 185, s. 75.

Filing plan and profile of completed line with Board.

75.—(1) A plan and profile of the completed railway, or of any part thereof, which is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board.

In registry offices.

(2) Plans of the parts of such railway so completed or in operation located in different districts and counties, prepared on such a scale and in such manner and form, and signed or authenticated in such manner as the Board may from time to time, by general regulation or in any particular case, sanction or require, shall be filed in the registry offices for the counties or districts in which such parts are respectively situate. R.S.O. 1914, c. 185, s. 76.

Plans and profiles, how prepared.

76.—(1) All plans and profiles required by law to be deposited by the company with the Board shall be drawn to such scale, with such detail, upon such materials, and shall be of such character as the Board may, either by general regulation or in any particular case, sanction or require.

Certification.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company.

Book of reference.

(3) Any book of reference required to be so deposited shall be prepared to the satisfaction of the Board.

Board may refuse sanction.

(4) Unless and until such plan, profile and book of reference are so made satisfactory to the Board the Board may refuse to sanction the same, or to allow the same to be deposited with the Board. R.S.O. 1914, c. 185, s. 77.

Further plans, etc., as Board requires.

77. In addition to such plans, profiles and books of reference the company shall, with all reasonable expedition, prepare and deposit with the Board any other or further plans,

profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require. R.S.O. 1914, c. 185, s. 78.

78.—(1) If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed or as merely located and sanctioned, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board.

Deviations, changes or alterations.
Plan, profile, etc.
Sanction of Board.

(2) The plan, profile and book of reference of the portion of such railway so proposed to be changed shall, when so sanctioned, be deposited and dealt with as hereinbefore provided with respect to such original plan, profile and book of reference.

Deposit.

(3) The company may thereupon make such deviation, change, or alteration, and all the provisions of this Act shall apply to the portion of such line of railway so at any time changed or proposed to be changed in the same manner as they apply to the original line.

Company may carry out changes.

(4) The Board may, either by general regulation or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where such deviation, change, or alteration, is made, or to be made, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose of public advantage as may seem to the Board expedient, if such deviation, change, or alteration does not exceed three hundred feet from the centre line of the railway located or constructed in accordance with the plans, profiles and books of reference deposited with the Board under this Act.

Board may dispense with submission of material.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the special Act. R.S.O. 1914, c. 185, s. 79.

Termini to be observed.

79.—(1) The company shall not commence the construction of the railway, or any section or portion thereof, until the plan, profile and book of reference has been submitted to and sanctioned by the Board as hereinbefore provided, nor until such plan, profile and book of reference so sanctioned has been deposited with the Board, and duly certified copies thereof with the registrars of deeds, in accordance with the provisions of this Act.

Commencement of works.

Changes.

(2) The company shall not make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with. R.S.O. 1914, c. 185, s. 80.

ACQUISITION OF LAND.

Quantity allowed without consent of owners.

Extent of
land which
may be
taken
for right
of way.

80. The land which may be taken without the consent of the owner shall not exceed

(a) for the right of way one hundred feet in breadth, except in places where the rail level is or is proposed to be more than five feet above or below the surface of the adjacent land, when such additional width may be taken as shall suffice to accommodate the slope and side ditches;

for sta-
tions, etc.

(b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right of way. R.S.O. 1914, c. 185, s. 81.

Conveyances by fiduciary owners.

Who may
convey
lands.

81.—(1) All tenants in tail or for life, guardians, committees of lunatics, or curators, executors, administrators, trustees and all other persons whomsoever as well for and on behalf of themselves, their heirs and successors, as also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, or other persons seised, possessed of or interested in any land, may contract for, sell and convey to the company all or any part thereof.

Order of
judge may
be had.

(2) When such persons have no right in law to sell or convey the rights of property in the said land, they may obtain from a judge, after due notice to the persons interested, the right to sell the said land.

Purchase
money.

(3) The judge shall make such orders as are necessary to secure the investment of the purchase money in such a manner as he deems proper to secure the interests of the owner of the land.

Limitation
of powers
to convey.

(4) The powers, by subsections 1 and 2 conferred upon

(a) rectors in possession of glebe lands,

(b) ecclesiastical and other corporations,

(c) trustees of land for church or school purposes,

(d) executors appointed by wills under which they are not invested with any power over the real property of the testator, and

(e) administrators of persons dying intestate, but at their death seized of real property

shall only extend and be exercised with respect to any of such land actually required for the use and occupation of the company. R.S.O. 1914, c. 185, s. 82.

82.—(1) Any contract, agreement, sale, conveyance or assurance made under the authority of the next preceding section shall be valid and effectual in law to all intents and purposes whatsoever, and any conveyance so authorized shall vest in the company receiving the same, the fee simple in the land therein described, freed and discharged from all trusts, restrictions and limitations whatsoever.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. R.S.O. 1914, c. 185, s. 83.

83. The company shall not be responsible for the disposition of any purchase money for land taken by it for its purposes if paid to the owner of the land or into court for his benefit. R.S.O. 1914, c. 185, s. 84.

84.—(1) Any contract or agreement made by any person authorized by this Act to convey land either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the land required for the railway, shall, if duly registered in the proper registry office, be binding at the price agreed upon if the land is afterwards set out and ascertained within one year from the date of the contract or agreement.

(2) Possession of the land may be taken, and the purchase money may be dealt with, as if it had been fixed by an award of arbitrators as hereinafter provided, and the contract or agreement shall be in the place of an award. R.S.O. 1914, c. 185, s. 85.

85.—(1) If, in any case not hereinbefore provided for, any person interested in any land so set out and ascertained is not authorized by law to sell or alienate the same he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor.

(2) If the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

How charged
in rail-
way ac-
counts.

(3) Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any land, or any part of the purchase money of any land which the vendor agrees to leave unpaid shall, upon the deed creating such charge or liability being duly registered in the registry office of the proper county, district or registration division, be chargeable as part of the working expenditure of the railway. R.S.O. 1914, c. 185, s. 86.

Purchase of Additional Land.

When more
ample space
required.

86.—(1) Should the company require, at any point on the railway, more ample space than it possesses or may take under section 80, for the convenient accommodation of the public, for the traffic on its railway, for protection against snowdrifts, for the diversion of a highway, for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the special Act, or to secure the efficient construction, maintenance or operation of the railway, it may apply to the Board for authority to take the same for such purposes without the consent of the owner.

Procedure.

(2) The company shall give ten days' notice of such application to the owner or possessor of such land, and shall, upon such application, furnish to the Board copies of such notices with affidavits of the service thereof.

Material
upon appli-
cation.

(3) The company, upon such application, shall also furnish to the Board in duplicate

Plans, etc.,

(a) a plan, profile and book of reference of the portion of the railway affected, showing the additional land required, and certified as hereinbefore provided with respect to plans and profiles required to be deposited by the company with the Board;

Particulars
to be
specified.

(b) an application, in writing, for authority to take such land, signed and sworn to by the president, vice-president, general manager or engineer of the company, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the land is required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights.

Authority
from Board.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion and upon such terms and conditions as the

Board deems expedient, authorize in writing the taking for such purposes of the whole or any portion of the land applied for.

(5) Such authority shall be executed in duplicate, and one of such duplicates shall be filed, with the plan, profile, book of reference, application and notices, with the Board; and the other, with the duplicate plan, profile, book of reference and application, shall be delivered to the company. Deposit with Board.

(6) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the secretary, shall be deposited with the registrars of deeds of the counties or districts, respectively, in which such lands are situate. In registry offices.

(7) All the provisions of this Act applicable to the taking of lands without the consent of the owner for the right of way or main line of the railway shall apply to the land authorized under this section to be taken, except the provisions relating to the sanction by the Board of the plan, profile and book of reference of the railway, and the deposit thereof, when so sanctioned, with the Board and with registrars of deeds. R.S.O. 1914, c. 185, s. 87. Provisions of this Act which apply.

Negotiations with owner for compensation and damages.

87.—(1) After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands or to persons empowered to convey land or interested in land which may be taken or which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway; and thereupon such agreements and contracts as seem expedient to both parties may be made with such persons touching the land, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties. After notice of deposit of map, etc., application to the owner of lands.

(2) In case of disagreement between the parties or any of them all questions which arise shall be settled as hereinafter provided. R.S.O. 1914, c. 185, s. 88. Settlement of questions.

Effect of depositing plan.

88.—(1) The deposit of a plan, profile and book of reference, and the notice of such deposit, shall be deemed a general notice to all persons of the land which will be required for the railway and works. Deposit, etc., to be general notice.

(2) The date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained; but if the company does not actually acquire the Effect on question of damages.

land within one year from the date of such deposit then the date of the acquisition shall be the date with reference to which such compensation or damages shall be ascertained. R.S.O. 1914, c. 185, s. 89.

Notice to Owner.

Notice to
opposite
party.

89.—(1) A notice shall be served upon the owner which shall contain

- (a) a description of the land to be taken, or of the powers intended to be exercised with regard to any land therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such land or for such damages; and
- (c) the name of a person to be appointed as the arbitrator of the company if the offer is not accepted.

Certificate
of O.L.S.
to accom-
pany notice.

(2) The notice shall be accompanied by the certificate of an Ontario land surveyor not interested in the matter and not being the arbitrator named in the notice:—

- (a) that the land, if the notice relates to the taking of land, shown on the plan, is required for the railway, or is within the limit of deviation allowed by this Act;
- (b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) that the sum so offered is, in his opinion, a fair compensation for the land, and for the damages.

If the party
is absent
or unknown.

(3) If the owner is absent from the county or district in which the land lies, or is unknown, then upon application to a judge of the county or district court of the county or district in which the land lies, accompanied by such certificate, and by an affidavit of some officer of the company that such owner is so absent, or that, after diligent enquiry, the owner on whom the notice ought to be served cannot be ascertained, the judge shall order the notice, but without such certificate, to be published three times in the course of one month in some newspaper published in the county or district.

Provision
when the
county
judge is
interested.

(4) Where the judge is interested in the land, a judge of the Supreme Court may, on application of the company, exercise all the powers given to a judge of a county or district court by this section.

Appointment of Sole Arbitrator.

(5) If, within ten days after the service of the notice or within one month after the first publication thereof, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the judge shall, on the application of the company, six days' notice of which shall be given to the owner, appoint a person to be sole arbitrator for determining the compensation or damages to be paid.

Failure to accept the company's offer, or appoint arbitrator.

Appointment of Arbitrators, and Their Duties.

(6) The judge shall, at the request of either party on such application, appoint three arbitrators to determine such compensation or damages, one of whom may be named by each party.

Appointment by judge of three arbitrators.

(7) If the owner within the time mentioned in subsection 5, notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the judge shall, on the application of the owner or of the company, previous notice of at least one clear day having been given to the other party, appoint a third arbitrator.

Appointment of arbitrator by opposite party.
Third arbitrator.

Notice of Claim by Owner after Entry.

(8) If land has been entered on and taken by the company, with or without the license of the person in possession thereof and without any agreement as to the compensation to be paid therefor, or if the land, though not taken, is injuriously affected by or through the construction of the railway, any owner or person interested in such land may commence proceedings to ascertain the compensation to which he is entitled in respect of the land so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the land taken or injuriously affected, and the amount of compensation or damages claimed, and thereupon like proceedings shall be taken to ascertain such compensation or damages as are prescribed where the company commences proceedings.

Proceedings to determine compensation.

(9) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner, or for damages.

Stating amount found payable in award.

(10) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a justice of the peace or a commissioner empowered to take affidavits, faithfully and

Duties of arbitrators.

impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they, or he, or a majority of them, deem best; and the majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and may from time to time, with the consent of all parties, but not otherwise, extend such time; but no award shall be made or any official act done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

Notes of
evidence.

(11).—(a) The arbitrators or the sole arbitrator shall take down in writing the evidence brought before them or him, unless either party requires that it be taken by a stenographer; in which case a stenographer shall be named by the arbitrators or arbitrator, unless the parties agree upon one.

Steno-
grapher.

(b) The stenographer shall be sworn before the arbitrators, or before any one of them, before entering upon his duties.

His
expenses.

(c) The expense of such stenographer, if not determined by agreement between the parties, shall be taxed by the court or a judge thereof, and shall, in any case, form part of the costs of the arbitration.

All papers
except
award to
be filed
in court.

(d) After making the award the arbitrators, or the sole arbitrator shall forthwith deliver or transmit by registered letter, at the request of either party in writing, the depositions, together with the exhibits referred to therein, and all papers connected with the reference except the award, to the Central Office at Osgoode Hall.

Death of
arbitrator
or failure
to act.

(12).—(a) If an arbitrator dies before the award is made, or is disqualified, or refuses or fails to act within a reasonable time, another arbitrator may be appointed in his stead.

(b) If such arbitrator was appointed by one of the parties, or by the judge on his nomination, he shall have the right to appoint the arbitrator in his stead.

(c) If such arbitrator was appointed by the judge, the arbitrator in his stead may be appointed by the judge, on the application of either party, on six days' notice to the other.

(d) If such arbitrator was appointed by the two arbitrators appointed by the parties, the arbitrator in his stead may be appointed by the remaining arbitrators.

(e) In a case not provided for by the foregoing provisions, the arbitrator may be appointed by the judge, on the application of either party, on six days' notice to the other.

(f) It shall not be necessary in any such case that the proceedings shall be recommenced or repeated.

(13).—(a) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment, which costs shall be taxed in the same manner as costs after an award.

Abandonment of proceedings.

(b) The company may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described.

New notice after abandonment.

(14) No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the land or other property, right or privilege for which such sum is to be the compensation; nor shall it be necessary that the person to whom the sum is to be paid be named in the award.

Awards not voided for want of form.

Appeals.

(15) Any party to the arbitration, may within one month after receiving a written notice from the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to the Supreme Court, and upon the hearing of the appeal the court shall decide any question of fact upon the evidence taken before the arbitrators as in a case of original jurisdiction.

Appeal to Supreme Court from award on question of law or fact.

(16) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from an award under *The Arbitration Act*, subject to any Rules of Court made under that Act or under *The Judicature Act*.

Procedure on appeal. Rev. Stat. cc. 97, 88.

(17) The right of appeal hereby given shall not affect the existing law or practice as to setting aside such awards.

Existing practice not affected.

(18) Where the company has taken possession of the land prior to the making of the award it shall, within seven days after receiving a written notice from the arbitrators of the making of the award, take up the same and deliver to the owner a copy thereof.

Company taking possession to take up award on notice.

Company's Right to Possession.

(19) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same, or upon the payment into court of the amount of such compensation in the manner herein-after mentioned, the award or agreement shall vest in the

Possession may be taken on payment or tender, etc., of sum awarded.

company the power forthwith to take possession of the land, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon.

Warrant of possession.

(20) If any resistance or forcible opposition is made to the exercise by the company of any such power, the judge of the county or district court of the county or district in which the land lies, or a judge of the Supreme Court shall, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the county or district to put the company in possession and to put down such resistance or opposition.

Powers of sheriff.

(21) The sheriff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company into possession.

When warrant of possession may issue before award.

(22) The warrant shall also be granted without the award or agreement, on affidavit to the satisfaction of the judge that the immediate possession of the land or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Procedure upon application for such warrant.

(23) The judge shall not grant any warrant under the next preceding subsection, unless

Notice.

(a) ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company, and

Deposit of compensation.

(b) the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than double the amount mentioned in the notice served under subsection 1 of this section.

Costs of application.

(24) The costs of any such application shall be in the discretion of the judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or person, without an order from the judge, which he may make in accordance with the terms of the award.

(25) The compensation for any land which may be taken without the consent of the owner shall stand in the stead of such land; and any claim to or incumbrance upon the land, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof, and the company shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person.

When compensation to stand in the place of the land.

(26) When

- (a) the company has reason to fear any claim, mortgage or incumbrance; or
- (b) any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance; or
- (c) the person entitled to claim the compensation or the annual rent cannot be found, or is unknown to the company; or
- (d) for any other reason, the company deems it advisable,

Payment of compensation into court in some cases.

the company may, by leave of a judge of the Supreme Court, pay such compensation or annual rent into court, with the interest thereon for six months, and with such further sum if such judge so directs, as may, in his opinion, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into court, and may deliver to the accountant of the Supreme Court a copy of the conveyance, or of the award or agreement if there is no conveyance.

(27) Such conveyance, award or agreement shall there-Title. after be deemed to be the title of the company to the land therein mentioned.

(28) A notice of such payment and delivery, in such form and for such time as a judge of the Supreme Court appoints, shall be inserted in a newspaper published in the county or district in which the land is situate.

Notice and publication.

(29) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under the authority of this Act, and shall call upon all persons claiming an interest in or entitled to the land, or to any part thereof, to file their claims to the compensation or any part thereof.

Contents of notice.

(30) All such claims filed shall be received and adjudicated upon by the court, and the adjudication shall bar all claims to the land, or any part thereof, including dower as well as all mortgages and incumbrances upon the same.

Adjudication on claims.

Adjustment
of compen-
sation

(31) The court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all persons interested as may be proper.

By whom
cost to be
paid.

(32) The costs of the proceedings in whole or in part, including the proper allowances to witnesses, shall be paid by the company or by any other person as the court may order.

When rebate
of interest to
be ordered.

(33) If the order for distribution, payment or investment is obtained within less than six months from the payment of the compensation, the court shall direct a proportionate part of the interest to be returned to the company;

Interest
as compen-
sation for
delay, etc.

(34) If from any error, fault or neglect of the company an order is not obtained until after the six months, the court shall order the company to pay into court, as part of the compensation, the interest for such further period as the court deems just. R.S.O. 1914, c. 185, s. 90.

Compensation to Owners of Lands Adjoining Highways.

Compensa-
tion to
owners of
lands
adjoining
highway.

90.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge, or underneath a highway or railway or street railway crossing by means of a sub-way or tunnel, and, in the construction of the approaches to such bridge or tunnel, raises or depresses part of a highway the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the said bridge or sub-way or tunnel or approaches thereto are constructed shall, if by reason of such construction his land or the business carried on upon such land is thereby injured or in any way depreciated in value, be entitled to receive compensation therefor from the company.

Procedure.

(2) The proceedings to obtain such compensation and to determine the amount thereof shall, so far as applicable, be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner.

Compensa-
tion where
grade of
highway
unaltered.

(3) Compensation for injury to, or depreciation of the value of any such business or land may be awarded by the arbitrators, if, in their judgment, any such injury or depreciation is caused by the existence of the railway notwithstanding that the grade of the highway may not have been changed or altered.

Only one
award.

(4) Not more than one award of damages shall be made under this section in respect of the same land or business.

Saving.

(5) This section shall not apply to such portions of any railway as are constructed on or before the 1st day of June, 1906, or which may be constructed under agreements existing at that date. R.S.O. 1914, c. 185, s. 91.

*Obtaining Stone, Gravel or Other Material.***91.**—(1) Whenever

- (a) any stone, gravel, earth, sand, water or other material is required for the construction, maintenance or operation of the railway, or any part thereof; Obtaining materials for construction or operation.
- (b) such materials so required are situate, or have been brought to a place, at a distance from the line of railway and the company desires to lay down the necessary tracks, spurs or branch lines, water pipes or conduits, over or through any lands intervening between the railway and the land on which such materials are situate or to which they have been brought, Transport. Tracks or conduits.

the company may, if it cannot agree with the owner of the land for the purchase thereof, cause an Ontario land surveyor to make a plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the land affected a copy of such plan and description, or of so much thereof as relates to the land owned or occupied by them respectively, duly certified by such surveyor or engineer. Plan and description.

(2) All the provisions of this Act shall, in so far as applicable, apply, and the powers thereby granted may be used and exercised to obtain the materials so required, or the right of way to the same, irrespective of the distance thereof; but the company shall not be required to submit any such plan for the sanction of the Board. Provisions of this Act which apply.

(3) The company may, at its discretion, acquire the land from which such materials are taken, or upon which the right of way thereto is located, for a term of years or permanently. Title may be acquired.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privileges and title required. Arbitration.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board and subject to such terms and conditions as the Board may impose. Tracks not to be used for other purposes. R.S.O. 1914, c. 185, s. 92.

Branch Lines and Switches and Sidings to Industries.

92.—(1) The company may, for the purpose of its undertaking, construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or from any branch thereof. Power to construct.

(2) Before commencing to construct any such branch line the company shall Procedure.

Plans, etc.

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and deposit the same, or such parts thereof as relate to each county or district through which the branch line is to pass, in the offices of the registrars of deeds for such counties or districts;

Notice of application to Board.

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county or district through which the branch line is to pass, or if there is no newspaper published in such county or district, then for the same period in the *Ontario Gazette*; but the Board may dispense with or shorten the time of such notice in any case in which it deems proper to do so; and

Material to be submitted.

(c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited.

Board may authorize branch line.

(3) The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of such branch line and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference or subject to such changes in location, grades or curves as the Board may direct.

Time for construction.

(4) Such authority shall limit the time, not exceeding two years, within which the company shall construct and complete such branch line.

Deposit of material with Board.

(5) There shall be deposited with the Board such authority and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board, under the provisions of this section.

And in registry offices.

(6) The company shall deposit in the registry offices of the counties or districts through which the branch line is to pass copies, certified as such by the secretary, of the authority, and of the papers and plans showing the changes directed by the Board.

No extension allowed.

(7) No branch line shall be

(a) extended under the foregoing provisions for the construction of branch lines; or

(b) constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the special Act.

(8) Upon compliance with the requirements of the next seven preceding subsections all the other provisions of this Act, except those relating to the sanction by the Board of the plan, profile and book of reference of the railway and the deposit thereof with the Board and in the offices of the registrars of deeds for the counties or districts through which the railway is to pass, shall, in so far as applicable, apply to the branch lines so authorized and to the land to be taken for them. R.S.O. 1914, c. 185, s. 93.

93.—(1) Where any industry or business is established or intended to be established within six miles of the railway, and the owner of such industry or business, or the person intending to establish the same, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto, the Board may, on the application of such owner or person, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such spur or branch line, and may direct such owner or person to deposit in a chartered bank such sum as is by the Board deemed sufficient or necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right of way, incidental expenses and damages.

(2) The amount so deposited shall, from time to time, be paid to the company, upon the order of the Board, as the work progresses.

(3) The aggregate amount so paid by the applicant in the construction and completion of the spur or branch line shall be repaid or refunded to him by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the spur or branch line.

(4) Until so repaid or refunded the applicant shall have a special lien for such amount upon the spur or branch line, to be reimbursed by such rebate.

(5) Upon repayment by the company to such applicant of all payments made by him upon such construction and completion, the spur or branch line, right of way, and equipment shall become the absolute property of the company free from any such lien.

(6) The operation and maintenance of the said spur or branch line by the company shall be subject to and in accordance with such order as the Board may make with respect thereto having due regard to the requirements of the traffic thereon, and to the safety of the public and of the employees of the company.

Provisions
applicable.

Spur or
branch
line re-
quired by
owner of
any industry.

Owner to
deposit
cost.

Payment
to the
company.

Repayment
to owner
by rebate
on tolls.

Lien to
owner
meantime.

Discharge
of lien.

Operation
of branch
to be
regulated
by Board.

Construction on application of municipal corporation.

(7) A municipal corporation may apply for the construction and maintenance of a spur or branch line for providing facilities in connection with a railway for the purpose of any industry, business or market established within six miles of the railway, and the provisions of the foregoing subsections shall apply as if the corporation were the person by whom the industry or business was established.

Cost in such case.

(8) Where the application is made by a municipal corporation, the Board may require the corporation to pay to the company the cost of construction and completion of the spur or branch line, or may require part of it to be paid by the corporation and part of it to be repaid or refunded by way of rebate so provided by subsection 3.

Provisions applicable.

(9) All the provisions of this Act respecting the construction of spur or branch lines shall apply to any spur or branch line constructed under this section. R.S.O. 1914, c. 185, s. 94.

Purchase of more land than necessary.

When company may purchase.

94.—(1) Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms than it could obtain the portion thereof which it may take from him without his consent it may purchase such larger quantity.

Sale of surplus land.

(2) The company may sell and dispose of any part of the land so purchased which may be unnecessary for the undertaking. R.S.O. 1914, c. 185, s. 95.

Snow Fences, Etc.

Erection of snow fences.

95.—(1) Every company may, on and after the 1st day of November in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, actually suffered and thereafter established, in the manner provided by law with respect to such railway.

Compensation.

Removal.

(2) Every snow fence so erected shall be removed on or before the 1st day of April then next following. R.S.O. 1914, c. 185, s. 96.

Use of Adjacent Lands during Construction.

Use of adjacent lands.

96.—(1) The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from

the centre of the located line of the railway, and may occupy such land as long as is necessary for such purposes; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required.

(2) Before entering upon any land for such purposes the company shall, if the consent of the owner is not obtained, pay into the Supreme Court If owner does not consent.

(a) such sum as is, after two clear day's notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of such court; and, Sum to be deposited.

(b) interest for six months upon the sum so fixed. Interest.

(3) Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may, upon order of a judge of such court, be paid out to such person in satisfaction *pro tanto* of such award, and the surplus, if any thereafter remaining, shall, by order of the judge, be repaid to the company. As security for compensation.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. Deficiency to be paid. R.S.O. 1914, c. 185, s. 97.

CONSTRUCTION AND EQUIPMENT.

Gauge.

97. The tracks of every railway, the construction of which is hereafter commenced, shall be of the standard gauge of four feet eight and one-half inches, unless the Board upon the application of the company otherwise orders. R.S.O. 1914, c. 185, s. 98. Gauge.

Equipment and Appliances for Trains.

98.—(1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means Modern and efficient.

(a) to provide immediate communication between the conductor, while in any car of any passenger train, and the engine driver or motorman; Communication.

(b) to check at will the speed of the train, and bring the same safely to a standstill, as quickly as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and Brakes.

- Couplers. (c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.
- Drive wheel brake. (2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.
- Power or train brakes. (3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer or motorman on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.
- Continuous, instantaneous action. (4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver, motorman or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.
- Box freight cars. (5) All box freight cars of the company shall, for the security of railway employees, be equipped with
- Outside ladders. (a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and
- Hand grips. (b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders:
- Other improvements. and if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands the Board may require any of such cars, not already fitted with the side attachments by this section required, to be fitted with such improved attachment.
- Running boards. (6) The running-board on the roof of each box freight car of the company shall, at all times, be of sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of the car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car likewise extend.

(7) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities. Height of draw-bars.

(8) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section. Delay may be allowed for compliance.

(9) The Board may, subject to the requirements of the preceding provisions of this section, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with such provisions, but the Board shall not by such order allow any exception to or modification of the requirements of this section. Board may determine what equipment sufficient.

(10) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. Oiling.

(11) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in Ontario, in which heating apparatus is placed, shall be provided with such safeguards against fire as the Board shall in writing from time to time approve. Safeguards against fire in cars.

(12) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding \$200 for every day during which such default continues, and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary. R.S.O. 1914, c. 185, s. 99. Penalty for non-compliance. Damages. Agreements to contrary invalid.

99. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle. R.S.O. 1914, c. 185, s. 100. Locomotives to have bells or whistles.

100. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle. R.S.O. 1914, c. 185, s. 101. Gongs and whistles.

101.—(1) Every car in use for the transportation of passengers in November, December, January, February, March and April in each year, which while in motion requires the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have its platforms so enclosed as to protect the motorman from exposure to wind and weather in such manner as the Board shall approve. Protection of conductors and motormen.

Where no rear vestibules.

(2) Every company operating its cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars during such period so far as is consistent with the proper performance of their duties.

Compartment for motorman.

(3) Every motor car built after the passing of this Act, designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty; and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

Penalty.

(4) Any company offending against the provisions of this section shall incur a penalty of \$100 for each offence and any person offending against the provisions of this section shall incur a penalty of not less than \$2 or more than \$50, recoverable under *The Summary Convictions Act*.

Rev. Stat. c. 121.

Application.

(5) This section shall apply only to railways operated by electricity, street railways and incline railways. R.S.O. 1914, c. 185, s. 102.

Power to require modifications of section 101.

102. The Board may, by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of section 101. R.S.O. 1914, c. 185, s. 103.

Powers of Board as to Equipment and Service.

Board may make regulations respecting—
Speed of trains.

103.—(1) The Board may make orders and regulations

(a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages; and prescribing, if it thinks fit, certain maximum rates of speed within certain described portions of any city, town or village, and different rates of speed in other portions thereof;

Use of steam whistle.

(b) with respect to the use of the steam whistle within any city, town or village or any portion thereof;

Passing from car to car.

(c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another;

Coupling.

(d) for the coupling of cars;

Shelter for employees.

(e) requiring proper shelter to be provided for all employees when on duty;

Devices to avoid fires.

(f) with respect to the use on any engine of nettings, screens, grates and other devices, and the use on any engine or car of any appliances and precau-

tions, and generally in connection with the railway respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started or occurring upon, along or near the right of way of the railway;

- (g) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting or preventing fires from spreading as the Board may deem proper, and to provide such rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed; Fire-rangers.
- (h) requiring the company to maintain an efficient patrol of the line of railway and other lands in the vicinity thereof to which fires may spread, and generally to define the duties of the company and such fire-rangers in respect thereof; Patrol of railway.
- (i) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above duties, and of the places or areas in which they are from time to time engaged; Returns.
- (j) with respect to the rolling stock, apparatus, cattle-guards, fenders, brakes, sanders, and vestibules, steps, seats, heating, lighting, open or closed cars, appliances, signals, methods, devices, structures and works to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public; For protection generally.
- (k) with respect to any matter, act or thing which, by this Act or the special Act is sanctioned, required to be done, or prohibited; Other matters.

(l) generally for carrying this Act into effect. Generally

(2) For the purpose of fighting and extinguishing fires, the fire-rangers may follow the fires which spread from the railway to, over and upon the lands to which they may spread. Powers of rangers.

(3) Any such orders or regulations may be made to apply to any particular locality, to any railway or section, or portion thereof, and the Board may exempt any railway or section or portion thereof, from the operation of any such order or regulation, for such time or during such period as the Board deems expedient. Application of orders.

(4) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company, person or municipal corporation offending against any regu- Penalties.

Rev. Stat.
c. 121. lation made under this section shall be liable, but no such penalty shall exceed \$100 for each offence, and every such penalty shall be recoverable under *The Summary Convictions Act*, or by action at the suit of the Attorney-General as the Board may, by regulation, determine.

Saving. (5) The imposition of any such penalty shall not lessen or affect any other liability which any company, person or municipal corporation may have incurred.

Application
of regula-
tions. (6) All orders or regulations under this section may be made to apply to any railways, whether operated by steam, electricity or other motive power, but no such order or regulation shall increase or extend, lessen or impair any obligation or duty resting upon, or any privilege or franchise enjoyed by the company under the special Act or under any agreement. R.S.O. 1914, c. 185, s. 104.

Jurisdiction
of Board
over railway.

As to regu-
lations,
equipment
and service.

104.—(1) Whenever the Board is of opinion after hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any railway company, street railway company, or incline railway company in respect to the transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, it shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property, and fix and prescribe the same by order to be served upon the company to be bound thereby; and it shall be the duty of the company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees.

Tracks
and motive
power.

(2) Whenever, in the opinion of the Board, repairs or improvements to or changes in any tracks, road-beds, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company or street railway company, or incline railway company, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, upon a hearing had either upon its own motion or after complaint, shall make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

(3) Whenever in the opinion of the Board, a street railway company or incline railway company

Jurisdiction
over street
railways or
incline
railways.

- (a) does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it;
- (b) does not run its cars with sufficient frequency or at a reasonably proper time;
- (c) does not run any car upon a reasonable time schedule for the run;
- (d) does not provide reasonable routes and services for the accommodation of the public;
- (e) does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points;
- (f) does not sufficiently or properly heat and light any of its cars or keep the same clean; or
- (g) operates any car which is not in proper repair and condition,

the Board may, after a hearing had either on its own motion or upon complaint, make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and may make any other order which the Board may deem necessary to accommodate and transport the passengers transported or offered for transportation, and the company shall be bound to obey every such order according to the exigency thereof.

Improvement of
service.

(4) The powers conferred by the three next preceding subsections upon the Board shall be in addition to the powers conferred upon it elsewhere in this Act.

Powers
additional
to present
powers.

(5) The Board shall have the like power and authority for the enforcement of any order made by it under the provisions of the said three subsections as it possesses for the enforcement of its orders under the other provisions of this Act, and especially the power and authority conferred by section 25 of *The Railway and Municipal Board Act*, and section 261 of this Act.

Enforcement of
orders.

Rev. Stat.
c. 225.

(6) The provisions of this section shall apply notwithstanding any agreement between the company and a municipal corporation or the provisions of any general or special Act relating to the agreement or to the company.

Application
of section.

Power to
require
construction,
maintenance
and
operation of
additional
lines.

(7) The powers conferred by this Act in the case of street railways wholly or partly in cities having a population of one hundred thousand or over shall include, but in the case of other street railways shall not include, the power to require the company owning or operating the street railway to construct, maintain and operate additional lines and extensions of existing lines, in, along and upon any street or highway or part of a street or highway upon which the company has authority to construct, maintain and operate its railway.

Limitation
of Board's
power.

(8) The Board shall not have power or authority to require or to permit a railway company, street railway company, or incline railway company, without the consent of the corporation of the municipality, to construct or lay down within the municipality more tracks or lines than, under its agreement with the corporation or the by-law of the council of the corporation of the municipality by which authority to construct the railway upon any such street or highway or part of a street or highway was conferred, it has authority to construct or lay down, but the agreement or by-law shall govern as to the number and location of the tracks and the streets or highways upon which the railway may be constructed.

Application
of agree-
ment.

(9) All tracks, switches, additional lines and extensions of existing lines which are, have been or shall be hereafter constructed and operated by a street railway company or incline railway company, in pursuance of an order of the Board, shall nevertheless be deemed to have been constructed under the authority, and shall be subject to all the provisions of the agreement between the company and the corporation of the municipality, or the by-law of the council thereof, by which authority to construct the railways was conferred upon the company. R.S.O. 1914, c. 185, s. 105.

Stopping
places.

105. Railways operated by electricity shall stop at such places, in addition to those fixed by the by-laws or regulations of the company, as the Board may from time to time, by resolution, direct and order. R.S.O. 1914, c. 185, s. 106.

Open cars.

106.—(1) Open or summer cars, for use upon a railway operated by electricity or upon a street railway, shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car, and no open or summer cars shall be used unless so arranged.

Side steps.

(2) The side steps on such cars shall be so constructed, if in the opinion of the Board it is practicable, that passengers will be prevented from standing upon the same while the car is in motion.

(3) The Board may relieve a company from the obligation imposed by subsection 1 as to any route upon which the space between the tracks, commonly called the devil strip, is not sufficiently wide to permit cars so arranged or constructed to be used. Exception.

(4) In all cases of dispute between a railway or street railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars or as to any other matter or thing mentioned in this section, the order of the Board shall be final and shall not be subject to appeal, and any order made by the Board as to any such matter shall be carried out and fulfilled by the company and the municipal corporation or either or both of them according to its terms. Disputes to be settled by Board.
Finality.
R.S.O. 1914, c. 185, s. 107 (1-4).

107.—(1) No passenger shall stand or be permitted to stand upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same. Passengers not to stand on side steps.

(2) For every contravention of subsection 1, the person offending shall incur a penalty of not less than \$2 or more than \$10, recoverable under *The Summary Convictions Act*. Penalty.
Rev. Stat. c. 121.
R.S.O. 1914, c. 185, s. 107 (5, 6).

THE ROAD BED AND ADJACENT LANDS.

Frogs, Packing, etc.

108.—(1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail. In what spaces.

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches. Idem.

(3) Such packing shall not reach higher than to the under side of the head of the rail. Height of.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid. Of what to consist.

Board may
regulate.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board, by regulation or in any particular case, determines. R.S.O. 1914, c. 185, s. 108.

Drainage.

Ditches and
drains.

109.—(1) The company shall, in constructing the railway, make and maintain suitable ditches and drains along each side of and across and under the railway, to connect with ditches, drains, drainage works and watercourses upon the land through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the land shall not be obstructed or impeded by the railway.

(2) Whenever

If drainage
insufficient.

(a) any land is injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such land; or

Or municipal
corporation
desires.

(b) any municipal corporation or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across, or under the railway or any works or land of the company

Board may
order.

the Board may, upon the application or complaint of the municipal corporation or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect the locality in question, and, if expedient, there to hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board.

Terms and
conditions.

(3) The Board may upon such report, or in its discretion, order how, where, when, by whom and upon what terms and conditions such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests.

When
order not
required.

(4) An order of the Board shall not be required in cases in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company, in accordance with any general regulations, plans or specifications adopted or approved by the Board for such purpose. R.S.O. 1914, c. 185, s. 109.

110.—(1) Whenever, by virtue of any Act, proceedings may be had or taken by any municipal corporation or landowner for any drainage, or drainage works, including the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner, such proceedings may be had or taken by such municipal corporation or landowner for drainage or drainage works upon and across the railway and land of the company, in the place of the proceedings before the Board provided for by the next preceding section. Drainage proceedings under Provincial Acts.

(2) Thereupon such Act shall apply to the land of the company upon or across which such drainage or other work is required, subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same land, and the company shall have the option of constructing the portion of any drain or drainage work required to be constructed upon, along, under or across its railway or land. Application of such Acts.

(3) In the event of the company not exercising such option, and completing such work within a reasonable time and without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under the provisions of such Act. Where delay.

(4) Notwithstanding anything in this section, no such drain or drainage works shall be constructed or reconstructed upon, along, under or across the railway or land of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board. Approval of Board.

(5) The proportion of the cost of drain or drainage works upon, along, under or across the railway or land of the company to be borne by the company shall in such cases be based upon the increase of cost of such work caused by the construction and operation of the railway. R.S.O. 1914, c. 185, s. 110. Cost of work.

Canals, Ditches, Wires, etc.

111.—(1) When any person having authority to create, develop, enlarge or change any water power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the said railway, an application may be made to the Board for leave to construct the necessary works. When canals, pipes or wires require to be carried across a railway. Application to Board.

Plan and
profile.

(2) Upon such application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make such crossing, and a plan or plans showing the proposed method of carrying such canal, tunnel, flume pipe, ditch or wire across, over or under the said railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires.

Terms of
order.

(3) The Board may, by order, grant such application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing, and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, and may order that detailed plans, drawings and specifications of any works, structures, equipment or appliances required shall, before construction or installation, be submitted to and approved by the Board. R.S.O. 1914, c. 185, s. 111.

Farm Crossings.

Farm cross-
ings.

112.—(1) Every company shall make crossings for persons across whose land the railway is carried convenient and proper for the crossing of the railway for farm purposes.

Care of
live stock.

(2) Live stock in using such crossing shall be in charge of some competent person who shall take all reasonable care and precaution to avoid accidents. R.S.O. 1914, c. 185, s. 112.

Necessary
crossings
may be
ordered by
Board.

113.—(1) The Board may, upon the application of any landowner, order the company to provide and construct a suitable crossing across the railway wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest.

Details.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such crossing shall be constructed and maintained. R.S.O. 1914, c. 185, s. 113.

Fences, Gates and Cattle-guards.

Fences, etc.,
to be kept
up.

114.—(1) The company shall erect and maintain upon the railway

Height,
and place.

(a) fences of a minimum height of four feet six inches on each side of the railway;

Gates.

(b) swing gates in such fences, of the height of the fence, with proper hinges and fastenings, at farm crossings: provided that sliding or hurdle gates, constructed before the 14th day of May, 1906, may be maintained; and

(c) cattle-guards, on each side of the highway, at every highway crossing at rail-level with the railway. Cattle-guards.

(2) The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway. Fences to be turned into cattle guards.

(3) Subsections 1 and 2 shall not apply where a railway is being operated along a public highway. Except along highway.

(4) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway lands. Nature of fences, etc.

(5) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining such fences, gates and cattle-guards, where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary. Exemption by Board.

(6) Where the railway is being constructed through enclosed lands it shall be the duty of the company to take effective measures to prevent cattle or other animals escaping from or getting upon such enclosed lands or upon the property of the company by reason of any act or thing done by the company, its contractors, agents or employees. Where lands are enclosed.

(7) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use. R.S.O. 1914, c. 185, s. 114. Duty of users to close gates.

115. Where the railway passes alongside of and immediately adjacent to a public highway the company shall not be required to erect and maintain a fence between the company's land and the highway unless the Board otherwise orders or directs; but where the railway is diverted from alongside of the highway the company shall erect and maintain cattle-guards at the point of diversion, and the railway fences at such point shall be turned into the cattle-guards. R.S.O. 1914, c. 185, s. 115. Fencing line adjoining highway.

Bridges, Tunnels and other Structures.

116.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beam, member, or portion of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder. Headway in tunnels and bridges.

(2) The Board may, if necessary, require any existing bridge, tunnel or other erection or structure to be reconstructed or altered, within such time as it may order, so as to Alteration of existing structures.

comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly.

Space.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 14th day of May, 1906, shall in no case be less than twenty-two feet six inches.

Where
structures
not owned
by company.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

What
may be
exempted.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains, except such as are equipped with air brakes, are run.

Penalty for
default.

(6) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section. R.S.O. 1914, c. 185, s. 116.

When
approval
of Board
required for
alterations
in bridges,
etc.

117.—(1) The company shall not commence the construction or reconstruction of or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, until leave therefor has been obtained from the Board, unless such construction, reconstruction, or alteration is made in accordance with standard specifications and plans approved by the Board.

Application
therefor and
material.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles, drawings and specifications of any such work proposed to be constructed, or reconstructed, and such other plans, profiles, drawings and specifications as the Board may, in any case or by regulation, require.

Powers of
Board.

(3) Upon any such application the Board may

Terms.

(a) make such order with regard to the construction of such work, and upon such terms and conditions as it deems expedient;

Alterations.

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

Supervision.

(c) give directions respecting the supervision of any such work; and

- (d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be taken, as, under the circumstances of each case, may appear to the Board best adapted for securing the protection, safety and convenience of the public. Other works.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith. Company may construct.

(5) Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and the Board may grant such order if it is satisfied that its orders and directions have been carried out, and that such work may be used or operated without danger to the public, and that the provisions of this section have been complied with. R.S.O. 1914, c. 185, s. 117. Leave of Board authorizing operation.

Railways Along or Across Highways.

118.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, and subject to the company, not being a street railway company, making such compensation to adjacent or abutting landowners whose lands are injuriously affected, whether structurally or otherwise, by the construction or operation of the railway as the Board deems proper, the railway of the company may be carried upon, along, or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter authorized; but the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway which is within the limits of any city or town until the company has first obtained consent therefor by a by-law of such city or town. Railway on highway. Consent of municipality.

(2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and on completion of the works shall restore the highway to as good a condition as it was originally in. Highway to be kept open.

(3) Every company which contravenes the provisions of this section shall incur a penalty of not less than \$40 for each such contravention. R.S.O. 1914, c. 185, s. 118. Penalty.

119. Whenever the railway crosses any highway at rail-level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. R.S.O. 1914, c. 185, s. 119. Variation of inch between rail and levels of highways permitted.

Deposit of
plan with
Board.

120.—(1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.

Powers of
Board.

(2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.

Provisions
as to taking
land and
compensation.

(3) When the application is for the construction of the railway upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

Supervision.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision.

Details to
be approved
by Board.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or permanently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

Regulations
by Board.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. R.S.O. 1914, c. 185, s. 120.

Foot
bridges.

121. The Board may order any company to erect over its railway at or near, or in lieu of any highway crossing at rail level, a foot bridge or foot bridges for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges. R.S.O. 1914, c. 185, s. 121.

Width of
highway and
height of
overhead rail-
way crossings.

122. The highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to an extent less than twenty feet, nor shall the

clear headway from the surface of the highway to the centre of any overhead structure, constructed after the 14th day of May, 1906, be less than fourteen feet, unless otherwise directed or permitted by the Board. R.S.O. 1914, c. 185, s. 122.

123.—(1) Where a railway is already constructed upon, Powers of Board as to existing crossings. along or across any highway the Board may, upon its own motion, or upon complaint or application by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway and may cause inspection of such portion and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected.

(2) When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board. Provisions as to taking land and compensation.

(3) Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of section 124 of this Act, order what portion, if any, of the cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board under this or the preceding section, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order. R.S.O. 1914, c. 185, s. 123. Apportionment of cost of changes.

124. Where a railway is constructed after the passing of this Act the company shall, at its own cost and expense, unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person, provide, subject to the order of the Board, all protection, safety and convenience Railways hereafter constructed to provide for safety of public at highway crossings.

for the public in respect of any crossing of a highway by the railway. R.S.O. 1914, c. 185, s. 124.

All structures must be safely constructed and maintained.

125. Every structure by which any railway is carried over or under any highway, or by which any highway is carried over or under any railway, shall be so constructed and, at all times, be so maintained as to afford safe and adequate facilities for all traffic passing over, under or through such structure. R.S.O. 1914, c. 185, s. 125.

Inclination of highway.

126.—(1) The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach.

Fencing approaches.

(2) A good and sufficient fence, at least four feet six inches in height from the surface of the approach or structure, shall be made on each side of such approach, and of the structure connected with it. R.S.O. 1914, c. 185, s. 126.

Signboards at level crossings.

127. Signboards at every highway crossed at rail level by any railway shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side thereof, in letters at least six inches in length, and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding \$10 recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 127.

Penalty.

Rev. Stat. c. 121.

Railway may be required to repair any level crossing out of repair.

128.—(1) Where a level crossing on any railway is out of repair the head of the municipality, under the jurisdiction of whose council the highway is, may serve a notice upon the company in the usual manner requiring the repair to be forthwith made; and if the company does not forthwith make the same the head of the municipality may transmit a copy of the notice so served to the Board; and thereupon the Board may order an inspection to be made and may appoint an inspector for that purpose who shall forthwith appoint a day when he will examine into the matter; and he shall, by mail, give notice to the head of the municipality, and to the company, of the day he so fixes; and upon the day so named he shall examine the crossing, and a certificate under his hand shall be final on the subject so in dispute between the parties; and if the inspector determines that any repairs are required he shall specify the nature thereof in his certificate and direct the company to make the same; and the company shall thereupon forthwith comply with the requirements of the certificate; and, in case of default, the corporation of the municipality may make such repairs and may recover all costs, expenses and outlays in the premises by action against the company.

Notice.

Inspector's certificate to be conclusive.

(2) The inspector shall be entitled to be paid \$10 and actual travelling expenses while engaged on the inspection, and in case he finds that any repairs are required he shall be paid by the company, but if he finds that no repairs are required he shall be paid by the municipality.

Payment of
inspectors.

(3) Neither this section nor any proceeding had thereunder shall affect any liability otherwise attaching to such company in the premises. R.S.O. 1914, c. 185, s. 128.

Other
liability.

Crossing and Junction of Railways.

129.—(1) The railway lines or tracks of any company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company until leave therefor has been obtained from the Board as hereinafter provided.

Leave
necessary for
crossings
and junctions.

(2) Upon any application for such leave the applicant shall submit to the Board a plan and profile of such crossing or junction and such other plans, drawings and specifications as the Board may, in any case or by regulation, require.

Application
to Board
and
material.

(3) The Board may by order

Powers of
Board.

- (a) grant such application on such terms as to protection and safety as it may deem expedient;
- (b) change the plan and profile, drawings and specifications, so submitted and fix the place and mode of crossing or junction;
- (c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;
- (d) direct that such works, structures, equipment, appliances and materials be constructed, provided, installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage;
- (e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works;
- (f) give directions as to supervision of the construction of the works; and
- (g) require that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

Leave of
Board
authorizing
operation.

(4) No trains shall be operated on the lines or tracks of the applicant, over, upon or through such crossing or junction until the Board grants an order authorizing such operation.

Idem.

(5) The Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.

Safety
appliances
on rail-level
crossings.

(6) The Board may order the adoption and use at any such crossing or junction, at rail levels, of such interlocking switch, derailing device, signal system, equipment, appliances and materials, as in the opinion of the Board will render it safe for engines and trains to pass over such crossing or junction without being brought to a stop. R.S.O. 1914, c. 185, s. 129.

Connections
of intersect-
ing rail-
way lines.

130.—(1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person interested, order that the lines or tracks of such railways shall be so connected at or near the point of intersection or crossing, or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used.

Terms and
costs.

(2) In and by the order for such connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and in what proportions, the cost of making and maintaining any such connection shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another. R.S.O. 1914, c. 185, s. 130.

Case of
intersection
with a rail-
way author-
ized by the
Dominion
Parliament.

131.—(1) Where the lines or tracks of any railway, the construction or operation of which is authorized by this Legislature, are intersected or crossed by those of a railway, the construction or operation of which is authorized by the Parliament of Canada, or in any case in which the lines or tracks of any two such railways run through or into the same city, town or village, and it is desired by one of such companies or by any municipal corporation or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines and trains from the lines or tracks of one railway to those of another, and for the reasonable receiving, forwarding, delivering, and interswitching of traffic

between such railways, the following proceedings may be had and taken:—

- (a) Either of such companies, or any municipal corporation or other public body, or any person interested, may file with the secretary, and with the secretary of the Board of Railway Commissioners for Canada, an application for an order that such connection should be required to be made together with evidence of service of such application upon the railway companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipal corporation of the municipality within which the proposed connection is to be made. Application to Board, and to Dominion Board.
- (b) After the receipt of the application, the Board, and the Board of Railway Commissioners for Canada, may, by joint session or conference, in conformity with the practice to be established by them, hear and determine the application, and may order that the lines and tracks of such railways shall be so connected at or near the point of intersection, or in or near such city, town or village, upon such terms and conditions and subject to such plans as they may deem proper. Joint order of boards.
- (c) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof, and may vary, alter or rescind the same from time to time. Power to make rules governing such applications.
- (d) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may from time to time assign or appoint from each Board the members comprising the Joint Board that may be required to sit for the hearing and determining of such applications as they arise. Membership of joint Board.
- (e) The order aforesaid may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as a rule, order or decree of such court. Order may be made Rule of Court.

(2) "Railway" for the purposes of this section shall include a steam or electric railway, street railway, tramway and incline railway. Interpretation. R.S.O. 1914, c. 185, s. 131.

Mines and Minerals.

Mines to be protected.

132. The company shall not, without the authority of the Board, locate the line of its proposed railway or construct the same or any portion thereof so as to obstruct or interfere with or injuriously affect the working of or the access or adit to any mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. R.S.O. 1914, c. 185, s. 132.

Company not entitled to minerals.

133.—(1) The company shall not, unless the same have been expressly purchased, be entitled to any mines, ores, metals, coal, slate, mineral oils, gas or other minerals in or under any land purchased by it, or taken by it under any compulsory powers given it by this Act, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works.

Exception.

Not included in conveyance.

(2) All such mines and minerals, except as provided by subsection 1, shall be deemed to be excepted from the conveyance of such land, unless they have been expressly named therein and conveyed thereby. R.S.O. 1914, c. 185, s. 133.

Prohibition of mining within 40 yards of railway.

134.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been obtained from the Board.

Application to Board.

(2) Upon any application to the Board for leave to work any such mines or minerals the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant affecting the railway, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Terms for protection of the public.

(3) The Board may grant such application upon such terms and conditions for the protection and safety of the public as the Board deems expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from such mining operations. R.S.O. 1914, c. 185, s. 134.

Compensation of mine-owner for loss through severance of mine.

135. The company shall, from time to time, pay to the owner, lessee or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee or occupier for and on account of any severance of the land lying over such mines by the railway, or of the working of such mines being prevented, stopped or interrupted, or of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and

also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway. R.S.O. 1914, c. 185, s. 135.

136. If necessary, in order to ascertain whether any such mines are being worked, or have been worked, so as to damage the railway or works or in such manner as to be detrimental to the safety of the public using the railway or of the tracks and trains of the company, it shall be lawful for the company, with the written permission and authorization of the Board, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. R.S.O. 1914, c. 185, s. 136.

Power of company to enter mines for purpose of ascertaining whether working endangers railway.

137. If the owner, lessee or occupier of any such mine refuses to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100. R.S.O. 1914, c. 185, s. 137.

Penalty for refusing company access to mines.

Prevention of Fire.

138. The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary inflammable matter. R.S.O. 1914, c. 185, s. 138.

Removing inflammable matter.

139.—(1) Whenever damage is caused to any property by a fire started by any railway locomotive the company making use of such locomotive, whether guilty of negligence or not, shall be liable for such damage, but if it is shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company, under this section, in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed \$5,000.

Liability for fire caused by locomotive.

Limit.

(2) If there is any insurance existing on the property destroyed or damaged the total amount of damages sustained by any claimant shall be reduced by the amount accepted or recovered by or for the benefit of such claimant in respect of such insurance.

Reduction of damages where insurance.

(3) No action shall lie against the company by reason of anything in any policy of insurance or by reason of payment of any money thereunder.

Railway and insurance contract.

Limitation.

(4) The limitation of one year prescribed by section 267 shall run from the date of final judgment in any action brought by the assured to recover such insurance money, or, in the case of settlement, from the date of the receipt of such moneys by the assured, as the case may be.

Apportionment of compensation.

(5) The compensation, in case the total amount recovered therefor is less than the claims established, shall be apportioned amongst the persons who suffered the loss, as the court or judge may determine.

Insurable interest in property.

(6) The company shall have an insurable interest in all property upon or along its route, for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon on its own behalf. R.S.O. 1914, c. 185, s. 139.

Powers of Board as to fire guards.

140. The Board may order, upon such terms and conditions as it deems expedient, that fire guards be established and maintained by the company along the route of its railway, and upon any land of His Majesty or of any person lying along such route, and, subject to the terms and conditions of any such order, the company may at all times enter into and upon any such land for the purpose of establishing and maintaining such fire guards thereon, and freeing from dead or dry grass, weeds and other unnecessary inflammable matter, the land between such fire guards and the line of railway. R.S.O. 1914, c. 185, s. 140.

*Limitation of Time for Construction.***Time for construction limited.**

141. If the construction of the railway, street railway, or incline railway is not commenced, and fifteen per centum of the amount of the capital stock is not expended thereon, within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of such Act, the powers granted by it or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted. R.S.O. 1914, c. 185, s. 141.

*Use of Steam During Construction.***Electric companies may use steam for construction.**

142. A company while constructing a line of railway to be operated by electricity on a right of way owned by the company may use steam as a motive power during such construction and at other times for construction purposes. R.S.O. 1914, c. 185, s. 142.

*Contracts for Construction.***Contracts for construction of line, etc.**

143. The company may contract with any individual, corporation or association of individuals for the construction or equipment of the railway or any part thereof, including or

excluding the purchase of right of way, and may pay therefor, either in whole or in part, in cash or in bonds, or in paid-up stock of the company, and may pay or agree to pay in such paid-up stock or bonds such sums as it may deem expedient to engineers, or for the right of way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting them and furthering the undertaking or purchasing the right of way, material, plant or rolling stock; but no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders, in person or by proxy, representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding, at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid up in cash. R.S.O. 1914, c. 185, s. 143.

Payment in
stock or
bonds.

Assent of
shareholders.

OPERATION AND SERVICE.

Regulations Governing the Running of Trains.

144. All regular trains shall be started and run as nearly as practicable at regular hours fixed by public notice. R.S.O. 1914, c. 185, s. 144.

Regular hours
and public
notice.

145.—(1) Every company shall have a blackboard put upon the outside of the station house over the platform of the station, in some conspicuous place, at each station of such company at which there is a telegraph or telephone office; and when any passenger train or car is overdue at any such station, according to the time-table of such company, the station agent or person in charge at such station shall write, or cause to be written, with white chalk on such blackboard a notice stating, to the best of his knowledge and belief, the time when such overdue train or car may be expected to reach such station.

Notice board
at stations.

Overdue
trains.

Time when
expected.

(2) If there is any further change in the expected time of arrival the station agent or person in charge of the station shall write, or cause to be written, on the blackboard in like manner a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train or car may then be expected to reach such station.

Further
changes.

(3) Every such company, station agent or person in charge at any such station shall incur a penalty not exceeding \$5 for every wilful neglect, omission or refusal to obey the provisions of this section, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 145.

Penalty for
omission.

Rev. Stat.
c. 121.

Accommodation.

146.—(1) The company shall

At starting point junctions and stopping places.

(a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway;

Carriage and delivery.

(b) furnish adequate and suitable accommodation for the carrying, unloading, and delivering of all such traffic;

No delay.

(c) without delay, and with due care and diligence, receive, carry, and deliver all such traffic; and

Appliances for carriage and delivery.

(d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic.

Including accommodation for private sidings.

(2) Such adequate and suitable accommodation shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by the company and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the placing of cars and moving them upon and from such private sidings and private branch railways.

Powers of Board.

(3) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests; or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act.

Payment of tolls.

(4) Such traffic shall be taken, carried to and from, and delivered at the places aforesaid on the due payment of the toll lawfully payable therefor.

Regulation of time to allow connections between railways for passengers and mails.

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway upon which passengers or mails are transported, the Board may order the company to so regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company, or companies, or by railway companies generally.

Specific works may be ordered by Board.

(7) Every person aggrieved by any neglect or refusal of the company to comply with the requirements of this section shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servants.

Right of action on default.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges. R.S.O. 1914, c. 185, s. 146.

Demurrage.

147. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. R.S.O. 1914, c. 185, s. 147.

Employees in passenger trains or stations to wear badges.

148.—(1) The fare or toll shall be due and payable by every passenger on entering the car or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train with his baggage, at any usual stopping place or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. R.S.O. 1914, c. 185, s. 148.

Expulsion on refusal to pay fare.

(2) Any passenger upon a car of an electric or street railway who refuses to pay his fare shall also be liable to a penalty not exceeding \$10, recoverable under *The Summary Convictions Act*. 1924, c. 51, s. 3.

Refusal to pay fare.

No claim
for injuries
in certain
cases.

149. No person injured while on the platform of a car, or on any baggage or freight car, in violation of the printed regulations posted up at the time, shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. R.S.O. 1914, c. 185, s. 149.

Position of
passenger
cars.

150.—(1) No passenger train shall have any freight, merchandise, or lumber car in the rear of any passenger car in which any passenger is carried.

Penalty for
violation.

(2) Every officer or employee of a company who directs, or knowingly permits, any freight, merchandise or lumber car to be so placed shall incur a penalty not exceeding \$10, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 150.

Rev. Stat.
c. 121.

Baggage
checks.

151.—(1) A check shall be affixed by the company to every parcel of baggage having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport, and a duplicate of such check shall be given to the passenger delivering the same.

Excess
baggage.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act.

Liability for
refusing to
check
baggage.

(3) If such check is improperly refused on demand the company shall be liable to such passenger for the sum of \$8 recoverable by action.

Saving.

(4) This section shall not apply to any train or car operated by electricity unless the Board so orders. R.S.O. 1914, c. 185, s. 151.

Transportation of
dangerous
goods.

152.—(1) No passenger shall carry, nor shall the company be required to carry upon its railway gunpowder, dynamite, nitro-glycerine or any other goods which are of a dangerous or explosive nature.

Nature
must be
marked on
outside.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the package containing the same and otherwise give notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered.

Notice.

Penalty.

(3) Every person who contravenes this section shall forfeit to the company the sum of \$500 for every such contravention. R.S.O. 1914, c. 185, s. 152.

Company
may refuse
to carry.

153.—(1) The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact.

(2) The company shall not carry any such goods of a dangerous nature except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "Dangerous Explosives." Carriage of such goods.

(3) For each neglect to comply with the provisions of this section the company shall incur a penalty of \$500. Penalty. R.S.O. 1914, c. 185, s. 153.

Crossing Draw or Swing Bridge.

154.—(1) When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall, before coming on or crossing over such bridge, be brought to a full stop and shall not thereafter proceed until a proper signal has been given for that purpose. Trains to stop at swing bridges.

(2) In default the company shall incur a penalty not exceeding \$400. Penalty.

(3) Any employee who fails to comply with the rules of the company made for carrying into effect the provisions of this section shall incur a penalty not exceeding \$400, recoverable under *The Summary Convictions Act*, and upon conviction shall also be liable to imprisonment for any term not exceeding six months or both. Employees. Rev. Stat. c. 121.

(4) Wherever there is in use on any railway at any such bridge an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the Board may, by order, permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the Board deems proper. Where safety devices installed. R.S.O. 1914, c. 185, s. 154.

Crossing Highways.

155.—(1) When any train is approaching a highway crossing at rail-level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of sounding the whistle until the engine has crossed such highway. Use of bell and whistle.

(2) In the case of a car or locomotive operated by electricity an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing. Electric cars or locomotives.

(3) The company shall for each neglect to comply with the provisions of this section incur a penalty of \$8, recoverable under *The Summary Convictions Act*, and shall also be liable for all damage sustained by any person by reason of such neglect. Penalty. Rev. Stat. c. 121. Damages.

Penalty on employee.

(4) Every employee of the company who neglects to comply with this section shall for each offence incur a like penalty.

Exception.

(5) This section shall not apply to trains approaching such a crossing within the limits of a city or town where a municipal by-law is in force prohibiting the sounding of the whistle or gong or the ringing of the bell. R.S.O. 1914, c. 185, s. 155.

Signal at rail-level crossings.

156.—(1) No train shall pass over any crossing where two main lines of railway or the main tracks of any branch lines cross each other at rail-level, whether they are owned by different companies or the same company, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person or watchman in charge of such crossing that the way is clear.

Electric railway crossings.

(2) In the case of an electric car crossing any railway track at rail-level, if there is no competent person or watchman in charge of the crossing, it shall be the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear.

Stoppage of trains at rail-level crossings.

(3) Every train shall, before it passes over any such crossing, be brought to a full stop; but whenever there is in use at any such crossing an interlocking switch and signal system or other device which, in the opinion of the Board, renders it safe to permit trains to pass over such crossing without being brought to a stop the Board may, by order, permit such trains to pass over such crossing without stopping under such regulations as to speed and other matters, as the Board deems proper.

Where safety devices are installed.

Where Dominion Board has made order.

(4) Nothing in this section shall apply to a case in which the Board of Railway Commissioners for Canada has jurisdiction to make an order and has made an order for the protection of such crossing. R.S.O. 1914, c. 185, s. 156.

Rate of speed in unfenced portions of cities.

157.—(1) No train shall pass in or through any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission is given by some regulation or order of the Board.

Board may limit.

(2) The Board may limit such speed in any case to any rate which it deems expedient.

Rate of speed at rail-level crossings in cities, towns and villages.

(3) Subject to the provisions of subsection 5 of this section no train shall pass over any highway crossing at rail-level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour, unless such crossing is constructed and thereafter maintained and protected in ac-

cordance with the orders, regulations and directions of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board.

(4) The Board may from time to time fix the speed in any case at any rate that it deems proper. Board may direct.

(5) No train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour, if at such crossing an accident has happened subsequent to the 1st day of January, 1905, by a moving train causing bodily injury or death to a person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; and no train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with. R.S.O. 1914, c. 185, s. 157. Rate of speed at certain crossings.

158.—(1) Whenever in any city, town or village any train is passing over or along a highway at rail-level, and is not headed by an engine or electric car moving forward in the ordinary manner, the company shall station on that part of the train, or of the tender if that is in front, which is then foremost a person who shall warn persons standing on, or crossing, or about to cross, the track of such railway. Trains or cars moving reversely in cities, etc.

(2) For every contravention of any of the provisions of this section, or of any of the next preceding two sections, the company shall incur a penalty of \$100, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 158. Penalty. Rev. Stat. c. 121.

159.—(1) Whenever any railway crosses any highway at rail-level the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time, or for any less period which the Board may prescribe. Trains must not stand on rail-level crossings more than five minutes

(2) For every contravention of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section shall incur a penalty not exceeding \$50, recoverable under *The Summary Convictions Act*, and the company shall also for each such violation incur a like penalty, but if such alleged violation is, in the opinion of the justice, excusable the prosecution for the penalty may be dismissed, and the costs shall be in his discretion. R.S.O. 1914, c. 185, s. 159. Penalty. Rev. Stat. c. 121. Where violation excusable.

Sleeping and Parlour Cars.

Sleeping
and parlour
cars.

160.—(1) The company may contract with any person for the hauling, by the special or regular trains of the company, of the parlour, drawing-room or sleeping cars of such person in which extra accommodation is furnished.

May charge
for extra
accommoda-
tion.

(2) Such person may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company.

Liability of
company.

(3) The company so contracting shall be liable in the same way and to the same extent as if the cars were owned by it.

Other obli-
gations not
affected.

(4) Nothing in this section shall relieve the company from the obligation to furnish sufficient ordinary cars for the reasonable accommodation of the travelling public. R.S.O. 1914, c. 185, s. 160.

Stations.

Stations.

161.—(1) The company shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order.

Accommoda-
tion.

(2) Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.

Approval of
location
by Board.

(3) Before the company proceeds to erect any station upon its railway the location of such station shall be approved of by the Board.

No discon-
tinuance
without
leave.

(4) No station established by a company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board.

Order by
Board upon
complaint
as to
station
accommoda-
tion, etc.

(5) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company, the Board shall forthwith investigate the complaint, and if, upon such investigation, it is found that such violation exists the Board shall issue an order to the company setting forth the nature of the improvements required and shall direct that the same be completed within such time as the Board may deem proper.

Right of
action.

(6) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company from which the company shall not be

relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants. R.S.O. 1914, c. 185, s. 161.

MUNICIPAL BONUSES.

162.—(1) Where a municipal corporation grants a bonus or makes a gift to the company to the amount of \$20,000 or upwards, or holds stock in the company to that amount, the head of the municipality shall be *ex-officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company.

When head of municipality to be *ex-officio* a director.

(2) A municipal corporation owning or having a controlling interest in the capital stock of a railway, electric railway, street railway or incline railway shall not dispose of the railway or its stock so as to deprive it of such controlling interest except under the authority of a by-law passed with the assent of the municipal electors in accordance with the provisions of *The Municipal Act*. R.S.O. 1914, c. 185, s. 162.

Municipal corporation not to part with control without assent of electors.

Rev. Stat. c. 233.

BY-LAWS, RULES AND REGULATIONS.

163. The company may, subject to the provisions and restrictions in this and in the special Act, make by-laws, rules or regulations respecting

Powers of company respecting—

- (a) the mode by which, and the speed at which, any rolling stock used on the railway is to be moved; Speed.
- (b) the hours of the arrival and departure of trains; Timetables.
- (c) the loading and unloading of cars, and the weights which they are respectively to carry; Loads.
- (d) the receipt and delivery of traffic; Freight regulations.
- (e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company; Nuisances.
- (f) the travelling upon or the using or working of the railway; Traffic and operation.
- (g) the employment and conduct of the officers and employees of the company; Conduct.
- (h) the due management of the affairs of the company; Management.
- (i) the number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class of car to be occupied by them. Passengers.

R.S.O. 1914, c. 185, s. 163.

Penalty for violation of by-laws.

164. The company may, for the better enforcing the observance of any such by-law, rule or regulation, prescribe a penalty not exceeding \$25 for any contravention thereof by an officer or employee of the company, but no such penalty shall be recoverable except under *The Summary Convictions Act* which shall apply to proceedings for the recovery thereof. R.S.O. 1914, c. 185, s. 164.

Rev. Stat. c. 121.

Essentials to validity.

165. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company. R.S.O. 1914, c. 185, s. 165.

When approval of Board required.

166. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally or impose penalties, shall be submitted to the Board for approval, and the Board may approve of them or any of them, or any part thereof, and may, from time to time, rescind its approval, and until so approved, or after such approval has been rescinded, no such by-law, rule or regulation shall have any force or effect. R.S.O. 1914, c. 185, s. 166.

Binding when approved.

167. Such by-laws, rules and regulations while so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder. R.S.O. 1914, c. 185, s. 167.

Publication of by-laws, etc., as regards public.

168.—(1) A printed copy of so much of any by-law, rule or regulation as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed and kept affixed to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

As regards officers or employees.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected. R.S.O. 1914, c. 185, s. 168.

Summary interference in certain cases.

169. If the contravention or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect of such violation or non-observance. R.S.O. 1914, c. 185, s. 169.

Evidence of by-laws.

170. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court. R.S.O. 1914, c. 185, s. 170.

171. Every written or printed document purporting to have been issued or authorized by a company, or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. R.S.O. 1914, c. 185, s. 171.

Of documents
authorized.

172. All by-laws, rules and regulations of a company operating its railway by electricity partly or wholly on a highway or of a street railway company shall be subject to any agreement between such company and the municipal corporation owning or maintaining such highway. R.S.O. 1914, c. 185, s. 172.

By-laws,
etc., to be
subject to
agreements
with municipal
corporations.

INSPECTION OF RAILWAYS.

Inspecting Engineers.

173.—(1) Inspecting engineers may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council.

Appointment of
inspecting
engineers.

(2) It shall be the duty of every such inspecting engineer, upon being directed by the Board, to inspect any railway or any branch line, siding or portion thereof whether constructed or in the course of construction, to examine the stations, rolling stock, rails, road bed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates and cattle-guards, telegraph, telephone or power or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board.

Duties.

(3) Every such inspecting engineer shall have the same powers with regard to any such inspection as by section 52 of *The Railway and Municipal Board Act* are conferred on an inspecting engineer.

Powers.

Rev. Stat.
c. 225.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to him all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the railway or any portion thereof.

Duties of
company to
afford
information.

(5) Every such inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph and telephone wires and machinery in the offices of, or under the control of, any such company.

Inspecting
engineers
may travel
free.

Use tele-
graph and
telephone
wires, etc.

Transmis-
sion of tele-
grams or
telephone.

(6) The operators or officers employed in the telegraph or telephone offices of or under the control of the company shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer who neglects or refuses so to do shall, for every such offence, incur a penalty not exceeding \$40, recoverable under *The Summary Convictions Act*.

Penalty
upon failure.

Rev. Stat.
c. 121.

Proof of
engineer's
authority.

(7) The production of his appointment in writing, signed by the Chairman of the Board, or the secretary, shall be sufficient evidence of the authority of such inspecting engineer.

Penalty for
obstructing
inspecting
engineers.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty shall incur a penalty not exceeding \$40, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 173.

Inspection of Line.

Leave of
Board before
opening.

174.—(1) No railway, nor any portion of a railway, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board as hereinafter provided.

Application
to Board
and
material.

(2) When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that such railway, or portion thereof, is, in his opinion, sufficiently completed for the safe carriage of traffic and ready for inspection.

Inspection.

(3) Before granting such application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

Order of
Board
when open-
ing reported
to be safe.

(4) If the inspecting engineer reports to the Board, after making such examination, that, in his opinion, the opening of the railway or portion thereof for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

When open-
ing reported
dangerous.

(5) If the inspecting engineer reports to the Board that, in his opinion, the opening of the railway or portion thereof would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway or portion thereof, he shall state in his report

the grounds for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report, and the Board may refuse such application, in whole or in part, or may direct a further or other inspection and report to be made.

Notice to be served on company.

(6) If thereafter, upon such further or other inspection or upon a new application under this section, the inspecting engineer reports that such railway or portion thereof may be opened without danger to the public the Board may make an order granting such application in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

Provision for further inspection.

Order for opening.

(7) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

Leave to carry freight traffic.

(8) If any railway or portion thereof is opened contrary to the provisions of this section the company, or person to whom such railway belongs, shall forfeit to His Majesty the sum of \$200 for each day on which the railway or portion thereof is or continues open without such leave. R.S.O. 1914, c. 185, s. 174.

Penalty for irregular opening.

175.—(1) Whenever any complaint is made to the Board, or the Board receives information, that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise, which, in its opinion, render it expedient the Board may direct an inspecting engineer to examine the railway or any portion thereof.

When railway out of repair.

Inspection.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewals, reconstruction, alteration or new work, materials or equipment to be made, done, or furnished by the company, upon, in addition to or substitution for any portion of the railway which may, from such report, appear to the Board necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction no portion of the railway, in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

Board may order repairs.

May enjoin operation meantime.

(3) The Board may, by such order, condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

Rolling stock may be condemned.

Penalty for
non-com-
pliance.

(4) If, after notice of any such order made by the Board, the company uses any rolling stock which has been so condemned by the Board, or disobeys, or fails to comply with any order of the Board made under this section, the company shall incur a penalty of \$2,000.

Aiding and
abetting.

(5) Any person wilfully and knowingly aiding or abetting any such contravention shall incur a penalty of not less than \$20 nor more than \$200, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 175.

Rev. Stat.
c. 121.

Inspecting
engineer
may forbid
operation.

176.—(1) If, in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, he may, by notice in writing,

(a) forthwith forbid the running of any train over such railway or portion of railway; or,

(b) require that the same be run only at such times, under such conditions and with such precautions as he by such notice specifies; and

(c) forbid the running or using of any such rolling stock.

What notice
shall state.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

Service of
notice.

(3) The notice may be served upon the company owning, running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

Action of
Board.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

Notice
thereof.

(5) Notice of such confirmation, modification or disallowance shall be duly given to the company.

Penalty for
non-com-
pliance.

(6) If any company refuses or neglects to comply with any order of the Board, made under this section, the company shall, for each such refusal or neglect, forfeit to His Majesty the sum of \$2,000.

Aiding or
abetting.

(7) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall incur a penalty of not less than \$20 or more than \$200, recoverable under *The Summary Convictions Act*.

Rev. Stat.
c. 121.

No prosecu-
tion without
leave of
Board.

(8) No prosecution for any penalty under this section shall be instituted without the authority of the Board. R.S.O. 1914, c. 185, s. 176.

TOLLS.

By-laws as to.

177.—(1) The company or the directors of the company by by-law, or any officer of the company thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which such tolls shall be paid.

By-laws
authorizing
tariffs of
tolls.

(2) The tolls may be either for the whole or any particular portion of the railway.

For whole
or part.

(3) All such by-laws and tariffs shall be submitted to the Board for approval.

Approval by
Board.

(4) The Board may approve such by-laws and tariffs in whole or in part, or may change, alter or vary any of the provisions therein.

In whole
or in part
or as varied.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by the Board; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board; nor shall the company charge, levy or collect any toll or money for any service as a common carrier, except under the provisions of this Act.

No tolls to
be charged
until by-law
approved by
Board.

(6) The Board may, with respect to any tariff of tolls other than the passenger and freight tariffs in this Act hereinafter mentioned, make regulations fixing and determining the time when, the place where, and the manner in which the tariff shall be filed, published and kept open for public inspection. R.S.O. 1914, c. 185, s. 177.

Regulations
of Board
as to publication
of
tariffs.

Express Tolls.

178.—(1) All express tolls shall be subject to the approval of the Board.

Approval of
express tolls.

(2) The Board may disallow any express tariff or any portion thereof which it considers unjust or unreasonable and shall have and may exercise all the powers with respect to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs; and all the provisions of this Act relating to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and the five next following sections, shall apply to express tolls and tariffs. R.S.O. 1914, c. 185, s. 178.

Disallowance
of express
tolls.

Tariff of
express
tolls.

179. Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case prescribes. R.S.O. 1914, c. 185, s. 179.

Goods not
to be carried
by express
unless tariff
in force.

180. No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided; or, in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto, or in any case where the express toll applicable to such carriage or transport has been disallowed by the Board. R.S.O. 1914, c. 185, s. 180.

And tolls
not to be
charged in
such case.

181. No express toll shall be charged in respect of which there is default in such filing, or which is disallowed by the Board. R.S.O. 1914, c. 185, s. 181.

Board may
define
carriage by
express.

182. The Board may, by regulation prescribe or in any particular case, determine what is carriage or transportation of goods by express, or whether goods are carried or transported by express within the meaning of this Act. R.S.O. 1914, c. 185, s. 182.

Conditions
limiting
liability to
be approved
by Board.

183.—(1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing, restricting or limiting the liability of such company, person or corporation with respect to the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, shall have any force or effect unless first approved by order or regulation of the Board.

Regulation
of carriage
by express.

(2) The Board may in any case or by regulation

(a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited; and

(b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. R.S.O. 1914, c. 185, s. 183.

Annual
return by
company.

184.—(1) Every company and every person and corporation charging express tolls shall make to the Board an annual return of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods.

(2) Such return shall be made in such form, covering such Form, etc., of return. period, and at such time, and shall be published in such manner as the Board from time to time directs. R.S.O. 1914, c. 185, s. 184.

185. Every company which carries or transports, and Carrying by express without filing tariff, etc. every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express,

(a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act; or,

(b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or,

(c) in any case where the express toll applicable to such carriage or transport has been disallowed by the Board,

shall be liable to a penalty not exceeding \$100 for each such Penalty. offence. R.S.O. 1914, c. 185, s. 185.

Collection of Tolls.

186.—(1) If the company pays the charges to which any Collecting back charges on goods. goods which come into its possession are subject the company shall have the same lien for the amount thereof upon such goods as the person to whom such charges were originally due, and shall be subrogated in respect of such charges to his rights and remedies.

(2) In case of refusal or neglect of payment on demand Proceedings for recovery. of any charges or any lawful tolls, or any part thereof, the same shall be recoverable in any court of competent jurisdiction.

(3) The company may, instead of proceeding by action Seizure and detention of goods. for the recovery of such tolls, seize the goods for or in respect whereof such tolls are payable, and may detain the same until payment thereof, and in the meantime such goods shall be at the risk of the owners thereof.

(4) If the tolls are not paid within six weeks, and where Sale of goods to recover tolls. the goods are perishable goods, if the tolls are not paid upon demand or if such goods are liable to perish while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale.

Surplus,
applica-
tion of.

(5) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto.

Unclaimed
goods.

(6) If any goods remain in the possession of the company unclaimed for the space of twelve months the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Ontario Gazette* and in such newspapers as it deems necessary, sell such goods by public auction at a time and place which shall be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods.

Payment
of balance.

(7) The balance of the proceeds, if any, shall be kept by the company for a further period of three months to be paid over to any person entitled thereto.

When
Province
entitled.

(8) In default of such balance being claimed before the expiration of the period last aforesaid the same shall be paid over to the Treasurer of Ontario to be applied to the general purposes of the Province.

Discrimina-
tion pro-
hibited.

(9) Such balance may be claimed by the person entitled thereto within six years of the date of such payment. R.S.O. 1914, c. 185, s. 186.

Equality.

Limitation
of claims.

187.—(1) All such tolls shall always, under substantially similar circumstances and conditions in respect of all traffic of the same description and carried in or upon a like kind of cars passing over the same portion of the line or railway, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

Idem.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

Proportion-
ate decrease
in tolls in
certain
cases.

(3) The tolls for larger quantities, greater numbers or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons.

Special
rates for
perishable
goods.

(4) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities.

Unjust dis-
crimination.

(5) No toll shall be charged which unjustly discriminates between different localities.

(6) The Board shall not approve or allow any toll which, Long and short haul clause. for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, within which such shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll.

(7) The Board may declare that any places are competi- Competitive points. tive points within the meaning of this Act.

(8) No company shall, without leave therefor having been Pooling prohibited. obtained from the Board, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. R.S.O. 1914, c. 185, s. 187.

Freight Classification and Tariffs.

188.—(1) The tariff of tolls for freight traffic shall be Tariff of tolls subject to classification by Board. subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Ontario as far as may be, having due regard to all proper interests.

(2) The Board may make any special regulations, terms Special terms and conditions. and conditions in connection with such classification, and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient.

(3) The company may, from time to time, with the ap- Changes of class. proval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other higher or lower class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in the *Ontario Gazette*. R.S.O. 1914, c. 185, s. 188.

189. All tariff by-laws and tariffs of tolls shall be in Form and particulars. such form, size and style, and give such information, particulars and details as the Board may, by regulation or in any case, prescribe. R.S.O. 1914, c. 185, s. 189.

190.—(1) The Board may disallow any tariff or any por- Disallowance. tion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute Substitution. a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Commence-
ment.

(2) The Board may designate the date at which any tariff shall come into force.

Amendment.

(3) Any tariff in force, except standard tariffs hereinafter mentioned, may, subject to disallowance or change by the Board, be amended or supplemented by the company by tariffs in accordance with the provisions of this Act.

Consolidation and
re-issue.

(4) When any tariff has been amended or supplemented from time to time the Board may order that a consolidation and reissue of such tariff be made by the company. R.S.O. 1914, c. 185, s. 190.

Fraction of
a mile.

191.—(1) In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile.

Fraction of
five pounds
in weight.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds.

Fraction of
five cents.

(3) In estimating the tolls to be charged in passenger tariffs any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents. R.S.O. 1914, c. 185, s. 191.

Division of
freight
tariffs.

192. The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes, namely:

Standard.

(a) The standard freight tariff;

Special.

(b) Special freight tariffs; and

Competitive.

(c) Competitive tariffs. R.S.O. 1914, c. 185, s. 192.

What
standard
freight
tariff to
specify.

193.—(1) The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway.

Distances.

(2) Such distances may be expressed in blocks or groups, and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls.

What special
freight
tariffs to
specify.

(3) The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged therein for a shorter than

for a longer distance over the same line in the same direction, if such shorter distance is included in the longer.

(4) The competitive tariffs shall specify the toll or tolls, ^{What competitive tariffs to specify.} lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem or have declared to be competitive points not subject to the long and short haul clause under the provisions of this Act. R.S.O. 1914, c. 185, s. 193.

194.—(1) Every standard freight tariff shall be filed with the Board and shall be subject to the approval of the Board. ^{Standard freight tariff.}

(2) Upon any such tariff being filed and approved by the Board the company shall publish the same, with a notice of such approval, in such form as the Board directs in at least two consecutive weekly issues of the *Ontario Gazette*. ^{Filing. Approval. Publication.}

(3) When the provisions of this section have been complied with the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods. ^{Tolls specified to be the only lawful tolls.}

(4) Until the provisions of this section have been complied with no toll for the carriage or transport of goods shall be charged by the company. R.S.O. 1914, c. 185, s. 194. ^{No toll until compliance.}

195.—(1) All special freight tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect. ^{Special freight tariffs.}

(2) When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file, but the Board may, by regulation or otherwise, determine and prescribe any other or additional method of publication of the tariff during such period. ^{If tolls previously in force are reduced. Notice.}

(3) When any such special freight tariff advances any toll previously authorized to be charged under this Act the company shall in like manner file and publish such tariff thirty days previously to the date on which such tariff is intended to take effect. ^{If previous tolls advanced.}

Effect of
filing.

(4) Upon any such special freight tariff being so filed and published the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein; and such special freight tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, so far as it reduces or advances the tolls therein. R.S.O. 1914, c. 185, s. 195.

Competitive
tariffs.

196.—(1) Competitive tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

Filing.

(2) Where it may be necessary to meet the exigencies of competition, or as the Board may deem expedient, the Board may make rules and regulations governing the filing or publication of such tariffs, and may provide that any such tariffs may be acted upon and put in operation immediately upon the issue thereof by the company before they have been filed with the Board. R.S.O. 1914, c. 185, s. 196.

Division of
passenger
tariffs.

197.—(1) The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes, namely:

Standard.

(a) The standard passenger tariff; and,

Special.

(b) Special passenger tariffs.

What
standard
passenger
tariff shall
specify.

(2) The standard passenger tariff shall specify the maximum mileage tolls to be charged for passengers for all distances covered by the company's railway, and such distances may be expressed in like manner as provided herein in respect of standard freight tariffs.

What special
passenger
tariffs shall
specify.

(3) Special passenger tariffs shall specify the toll or tolls to be charged by the company for passengers, in every case where such tolls are lower than the tolls specified in the company's standard passenger tariff. R.S.O. 1914, c. 185, s. 197.

Standard
passenger
tariff.

198.—(1) A standard passenger tariff shall be filed, approved and published in the same manner as required by this Act in the case of a standard freight tariff.

No toll
until com-
pliance.

(2) Until the company files its standard passenger tariff and such tariff is so approved and published in the *Ontario Gazette* no tolls for the carriage of passengers shall be charged by the company.

Tolls
authorized.

(3) When the provisions of this section have been complied with the tolls in the standard passenger tariff shall, except in the case of special passenger tariffs, be the only tolls which the company is authorized to charge for the carriage of passengers. R.S.O. 1914, c. 185, s. 198.

199.—(1) The company shall file all special passenger tariffs with the Board and shall, for three days previous to the date on which any such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each such tariff at every station or office of the company where passengers are received for carriage thereunder, and also post up in a prominent place at each such office or station a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file, but the Board may, owing to the exigencies of competition or otherwise, notwithstanding anything in this section, determine the time or manner within and according to which publication of any such tariff is to be made.

Special
passenger
tariffs.

Notice.

(2) The date of the issue and the date on which, and the period, if any, during which any such tariff is intended to take effect shall be specified therein.

Date and
period.

(3) Upon any such tariff being so duly filed the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

Effect of
filing.

(4) Until such tariff is so duly filed no such toll or tolls shall be charged by the company. R.S.O. 1914, c. 185, s. 199.

No toll
before filing.

200.—(1) Where traffic is to pass over any continuous route in Ontario operated by two or more companies the companies may agree upon a joint tariff for such continuous route, and the initial company shall file such joint tariff with the Board, and the other company or companies shall promptly notify the Board of its or their assent to and concurrence in such joint tariff.

Joint tariffs
may be
agreed upon.

(2) The names of the companies whose lines compose such continuous route shall be shown by such tariffs.

Names of
companies.

(3) If the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any places or ports in Ontario, and if any such vessel carries traffic between a port in Ontario reached by such company and a port in Ontario reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Ontario within the meaning of this section. R.S.O. 1914, c. 185, s. 200.

Continuous
route in the
case of
carriage by
water.

201.—(1) In the event of failure by such companies to agree upon any such joint tariff as provided in the last preceding section, the Board, on the application of any company or person desiring to forward traffic over any such continuous

Where
failure to
agree.

Board may require.

route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect.

Companies to comply.

(2) Upon any such order being made the companies shall, as soon as possible, or within such time as the Board may require, file and publish a joint tariff in accordance with this Act and in accordance with such order.

Apportionment of through rate.

(3) In any case where there is a dispute between the companies interested as to the apportionment of a through rate in any joint tariff the Board may apportion such rate between such companies.

Power of Board.

(4) The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge. R.S.O. 1914, c. 185, s. 201.

Continuous carriage.

202.—(1) No company shall, by any combination, contract or agreement, express or implied, or by other means or devices, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

Break in bulk, etc.

(2) No break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage, or to evade any of the provisions of this Act. R.S.O. 1914, c. 185, s. 202.

Continuity.

Filing and publication of joint tariffs.

203.—(1) Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description; and, upon any such joint tariff being so duly filed with the Board, the company or companies shall, until such tariff is superseded or disallowed by the Board, charge the toll or tolls as specified therein; but the Board may except from the provisions of this section the filing and publication of any or all passenger tariffs of foreign railway companies.

Exceptions.

Information which Board may require.

(2) The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, which it or any other company is to receive or has received. R.S.O. 1914, c. 185, s. 203.

204.—(1) The company shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariffs at the following places respectively, Where tariffs may be inspected.

- (a) standard passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder; Standard tariffs.
- (b) special passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder, and, as to such freight tariffs, as soon as possible, at each of its stations or offices to which freight traffic is to be carried thereunder; Special tariffs.
- (c) competitive tariffs, at each freight station or office of the company where goods are to be received and delivered thereunder; Competitive tariffs.
- (d) joint tariffs for traffic passing over any continuous route in Ontario, operated by two or more companies, at each freight station or office where traffic is to be received, and at each freight station to which such tariffs extend. Joint tariffs.

(2) The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway for inspection during business hours. Freight classifications.

(3) The company shall post up in a prominent place at each of its stations where passengers or freight, respectively, are received for carriage a notice in large type directing the public attention to the place in such station where the passenger or freight tariffs, respectively, are kept on file for public inspection during business hours, and the station agent or person in charge at such station shall produce to any applicant, on request, any particular tariff in use at that station which he may desire to inspect. Notice to be posted at station or place where tariffs open to inspection.

(4) Notwithstanding anything in this section, the Board may, in addition to or in substitution for the publication of any tariff required by this section, by regulation or otherwise, determine and prescribe the manner and form in which any such tariff shall be published or kept open by the company for public inspection. R.S.O. 1914, c. 185, s. 204. Power of Board as to publication of tariffs.

205. If any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by such company, either alone or with any other company or person Contravention of orders, etc.

- (a) wilfully does or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls; or
- (b) wilfully omits or fails to do any act, matter or thing hereby required to be done; or
- (c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be so done; or
- (d) contravenes any such order, direction, decision or regulation or any of the provisions of this Act, in respect of tolls,

Penalty. such company, director, officer, receiver, trustee, lessee, agent or person shall for each such offence incur a penalty of not less than \$100 nor more than \$1,000. R.S.O. 1914, c. 185, s. 205.

False billing, etc.

206. Any company or any officer or agent thereof, or any person acting for or employed by such company, who, by means of false billing, false classification, false report of weight, or by any other device or means, knowingly, wilfully or willingly suffers or permits any person or persons to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000. R.S.O. 1914, c. 185, s. 206.

Penalty.

Idem.

207.—(1) Any person, or any officer or agent or any incorporated company, who shall deliver goods for transportation to such company, or for whom as consignor or consignee the company shall transport goods, who knowingly or wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtains transportation for such goods at less than the regular tolls then authorized and in force on the railway shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000.

Penalty.

Further toll.

(2) The Board may make regulations providing that any such person or company shall, in addition to the regular toll, be liable to pay to the company a further toll not exceeding fifty per centum of the regular charge.

Opening of packages.

(3) The company may, and when ordered by the Board shall, open and examine any package, box, case or shipment, for the purpose of ascertaining whether this section has been violated. R.S.O. 1914, c. 185, s. 207.

208. Any person or company, or any officer or agent of any company, Unjust discrimination.

- (a) who offers, grants, or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force; or
- (b) for whom the company or any of its officers or agents is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or,
- (c) who aids or abets the company in any unjust discrimination,

shall for each offence incur a penalty of not less than \$100 nor more than \$1,000. R.S.O. 1914, c. 185, s. 208. Penalty.

209. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, any departure from the tolls in such tariff, while so in force, shall, on the part of such company, its officers, agents or employees, be an offence under this Act. R.S.O. 1914, c. 185, s. 209. Departure from tolls in tariff.

Passenger Fares on Electric Roads.

210.—(1) Notwithstanding anything to the contrary contained in any agreement with a municipal or other corporation or person or in any special Act, Limit of fares on electric railways.

- (a) the fare to be taken by a company on a railway operated by electricity for each passenger shall not exceed five cents for any distance not exceeding three miles, and where the distance exceeds three miles shall not exceed two cents per mile or fraction thereof for the distance actually travelled; and in the case of children under ten years of age shall not exceed three cents for three miles or less, and where the distance exceeds three miles shall not exceed one cent per mile or fraction thereof for the distance actually travelled, but children in arms shall in all cases be carried free; Generally.
- (b) pupils under seventeen years of age actually attending school shall be entitled to purchase at any office of the company where tickets are sold on a certificate from their principal teacher that they are *bona fide* pupils attending school eight tickets Pupils' tickets.

for twenty-five cents, such ticket to be used only between the hours of eight o'clock and half-past nine in the forenoon, and between half-past three and five o'clock in the afternoon, and then only for the purpose of attending and returning from school, but no such ticket shall entitle any pupil to ride a greater distance than five miles. R.S.O. 1914, c. 185, s. 210 (1).

Certain agreements not affected.

(2) This section shall not alter or vary any agreement by which the company is bound to charge a lower rate of fares for passengers than those mentioned in this section, or to supply a greater number of tickets to pupils attending school or to pupils of a greater age or at different hours or for a greater distance than mentioned in this section. R.S.O. 1914, c. 185, s. 210 (2); 1918, c. 30, s. 2.

Exception of companies operating in provincial parks.

(3) This section shall not apply to a company whose tariff for passenger fares is subject to the approval of any commissioners in whom are vested any park or land owned by the Crown for the use of the public. R.S.O. 1914, c. 185, s. 210 (3).

Traffic Facilities.

Facilities for traffic

211.—(1) All companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock.

Including through traffic.

(2) Such facilities to be so afforded shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and, in the case of goods shipped by car load, of the car with the goods shipped therein, to and from the railway of such other company, at a through rate; and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.

(3) No company shall

No undue preference.

(a) make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or company, or any particular description of traffic, in any respect whatsoever;

Or discrimination.

(b) by any unreasonable delay or otherwise howsoever make any difference in treatment in the receiving, loading, forwarding, unloading or delivery of goods of a similar character in favour of or against any particular person or company;

(c) subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever; or

(d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects.

(4) Every company which has or works a railway forming part of a continuous line of railway with or which intersects any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway, all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf.

(5) The reasonable facilities which every railway company is required to afford under this section shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways.

(6) Every company which grants any facilities for the carriage of goods by express to any incorporated express company or person shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same.

(7) Any agreement made between any two or more companies contrary to this section shall be unlawful and null and void. R.S.O. 1914, c. 185, s. 211.

212.—(1) Where two or more electric street railway or radial railway systems, or a street railway system and a radial railway system owned or operated by the same or by different corporations, lie contiguous to one another each corporation shall afford to the other or others all reasonable facilities for the interchange of traffic and running rights over its lines.

(2) The nature or extent of the facilities and running rights to be afforded, and the terms and conditions upon which they shall be exercised, shall be determined by the

Board, and it shall be the duty of each corporation to conform to and obey any order of the Board made in the premises.

When exercised.

(3) The order may be made on the application of any or either of the corporations or of a municipal corporation or person interested or of the Board's own motion.

Varying order.

(4) The Board may from time to time vary the terms of any order made under the preceding subsections as it may deem just.

Exercising powers where system not complete.

(5) The powers conferred on the Board may be exercised in respect of an electric street railway system which a corporation has authority to construct, the location and plans of which have been approved by the Board, notwithstanding that no part or that part only of the system has been constructed, and such powers may also be exercised notwithstanding that a corporation has the exclusive right to build and operate surface railways within the municipality or any part of it.

Or right is exclusive.

Interpretation. "Corporation."

(6) In this section "corporation" and "corporations" shall include a municipal corporation.

Extent of powers of Board.

(7) For the purposes of this section the Board shall have all the powers conferred by section 130.

Commencement section.

(8) This section shall not come into force until a day to be named by the Lieutenant-Governor by Proclamation. R.S.O. 1914, c. 185, s. 212.

Burden of proof respecting unjust discrimination, etc.

213.—(1) Whenever it is shown that any company charges one person, company, or class of persons, or the persons in any locality, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another locality, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination shall lie on the company.

What Board may consider in determining unjust discrimination, etc.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing in the interest of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Apportionment of toll for carriage by land and water.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company

to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail. R.S.O. 1914, c. 185, s. 213.

214.—(1) The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of sections 187 and 211.

Power of Board to determine what are substantially similar circumstances, undue preferences, etc.

(2) The Board may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of such sections.

Power to make regulations in that behalf.

(3) For the purposes of section 212 the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. R.S.O. 1914, c. 185, s. 214.

Power to order specific works.

215. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the lawful tolls chargeable by such company. R.S.O. 1914, c. 185, s. 215.

Effect of tariff when filed.

Presumption against company.

General Provisions Respecting Carriage.

216.—(1) No contract, condition, by-law, regulation, declaration or notice, made or given by the company, impairing, restricting, or limiting its liability in respect of the carriage of any traffic, shall, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice shall have been first authorized or approved by order or regulation of the Board.

Effect of contracts, etc., impairing carriers' liability.

(2) The Board may, in any case or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited.

Power of Board.

Terms
may be
prescribed.

(3) The Board may, by regulation, prescribe the terms and conditions under which any traffic may be carried by the company. R.S.O. 1914, c. 185, s. 216.

217. Nothing in this Act shall be construed to prevent

Permission
for free or
reduced
traffic for
Government
and chari-
table pur-
poses, etc.

(a) the carriage, storage or handling of traffic, free or at reduced rates, for the Dominion, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation;

Excursion-
ists, immi-
grants, etc.

(b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;

Officers,
employees,
members of
Parliament,
the press,
Interstate
Commerce
Commission.

(c) railways from giving free carriage or reduced rates to their own officers or employees, or their families, or to former employees of any railway, or for their goods and effects, or to members of the Senate and House of Commons of Canada or of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to such other persons as the Board may approve or permit;

Passes.

(d) the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees and their families, or their goods and effects;

Power of
Board to
regulate
such traffic.

Provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board. R.S.O. 1914, c. 185, s. 217.

When special
rates allowed.

218.—(1) Notwithstanding anything in this Act the Board may make regulations permitting the company to issue special rate notices prescribing tolls lower than the tolls in force upon the railway to be charged for specific shipments between points upon the railway, not being competitive points, if it considers that the charging of the special tolls mentioned in any such notices will help to create trade, or develop the business of the company, or be in the public interest, and not otherwise contrary to the provisions of this Act.

Notice to
be filed
with Board.

(2) Every such special rate notice, or a duplicate copy thereof shall be filed with the Board, and shall exist merely

for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein. R.S.O. 1914, c. 185, s. 218.

219. The company shall furnish free transportation upon any of its trains for members of the Assembly, with their baggage, and for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul free of charge any car provided for the use of the Board. R.S.O. 1914, c. 185, s. 219.

Members of
Legislature
and Board
to have free
transporta-
tion.

RAILWAY CONSTABLES.

220.—(1) Any two justices of the peace or a police magistrate, within whose jurisdiction the railway runs, may, on the application of the company or of any clerk or agent of the company, thereto authorized by the company, appoint any person, being a British subject, recommended for that purpose by such company, clerk or agent to act as a constable on and along such railway.

Constables
may be
appointed to
act on the
line of any
railway.

(2) Every person so appointed shall take and subscribe an oath to the effect following:

Oath of
office.

"I, A. B., having been appointed a constable to act upon and along (here name the Railway), under The Railway Act, do swear that I am a British subject by birth (or naturalization) and not a citizen or a subject of any foreign country, and that I will well and truly serve our Sovereign Lord the King, in the office of constable, without favour or affection, malice or ill-will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that while I continue to hold such office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law: So help me God."

(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath shall be endorsed thereon by the person administering the same. R.S.O. 1914, c. 185, s. 220.

Appoint-
ment to be
in writing.

221.—(1) Every constable so appointed and having taken such oath may act as a constable for the preservation of the peace and for the security of persons and property against unlawful acts

Powers of
such con-
stables, and
to what
localities
they shall
extend.

(a) on such railway, and on any of the works belonging thereto;

(b) on and about any trains, roads, wharves, quays, landing-places, warehouses, land and premises belonging to the company, or in any place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such company, and

(c) in all places not more than one-quarter of a mile distant from such railway;

Power to apprehend offenders, etc.

(2) Every such constable shall have all the powers, protection and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences, and for keeping the peace, possessed by any constable duly appointed. R.S.O. 1914, c. 185, s. 221.

Duties of such constables.

222.—(1) Every such constable may take such persons as are charged with any offence against the provisions of this Act, or of any of the Acts or by-laws affecting the railway, before any justice or justices appointed for any county or district within which such railway passes.

Jurisdiction of justices.

(2) Every such justice may deal with all such cases as though the offence had been committed and the person taken within the limits of his jurisdiction. R.S.O. 1914, c. 185, s. 222.

Dismissal by judge.

223.—(1) A judge of the county or district court of the county or district may dismiss any such constable who is acting within his jurisdiction.

By company.

(2) The company or any manager or superintendent thereof may dismiss any such constable who is acting on the railway.

Re-appointment.

(3) No person so dismissed shall be again appointed or act as a constable for such railway without the consent of the authority by which he was dismissed. R.S.O. 1914, c. 185, s. 223.

Record of appointment of constables.

And of dismissals.

224.—(1) The company shall, within one week after the date of the appointment or dismissal, as the case may be, of any constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county or district wherein the railway passes,—

- (a) such appointment or a certified copy thereof;
- (b) the name and designation of any such constable;
- (c) the date of the appointment;
- (d) the name of the authority making such appointment;
- (e) in the case of dismissal the fact of the dismissal of any such constable;
- (f) the date of any such dismissal; and
- (g) the name of the authority making such dismissal.

Effect as evidence.

(2) A copy of such record shall be *prima facie* evidence of the due appointment of such constable or of his dismissal as the case may be.

(3) The clerk of the peace shall keep a record of all such facts in a book which shall be open to public inspection, and shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. R.S.O. 1914, c. 185, s. 224. Book for such records.

225. Every such constable who is guilty of any neglect or breach of duty in his office of constable shall incur a penalty not exceeding \$80, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 225. Neglect of duty by constable. Penalty. Rev. Stat. c. 121.

POWERS OF PASSENGER CONDUCTORS AS CONSTABLES.

226.—(1) The conductor of every train carrying passengers shall have all the powers of a constable while on duty on his train, and may wear a badge or other distinguishing mark of a special constable. Conductors to have powers of constables.

(2) Every passenger who

(a) is guilty of disorderly conduct;

(b) uses any blasphemous or obscene language; or

(c) plays any game of cards of chance for money or any other thing of value,

Removal of passenger guilty of misconduct.

may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train with his baggage at any usual stopping place or near any dwelling house as the conductor elects, but the conductor shall first stop the train and shall use no unnecessary force.

(3) The conductor may command the assistance of the employees of the company and of the passengers on such train to assist in such removal. R.S.O. 1914, c. 185, s. 226. Assistance to conductor.

227. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables. R.S.O. 1914, c. 185, s. 227. Notice of authority of conductor.

STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS.

General Provisions.

228. Unless otherwise provided, sections 229 to 265 shall apply only to street railways and street railway companies and to other railways incorporated for the purpose of operating partly or wholly along highways by electricity. R.S.O. 1914, c. 185, s. 228. Limited application of ss. 229 to 265.

229. Every such company may, subject to the provisions of the special Act or of any agreement between the company and a municipal corporation, construct, maintain, complete Powers of Company.

and operate and, from time to time, remove and change, as required, a double or single track railway, with the necessary switchers, side tracks and turn-outs for the passage of cars, carriages and other vehicles adapted to the same, upon and along such of the highways in any municipality to which the special Act extends, as the council of the municipality may by by-law authorize, and over and upon land purchased or leased by the company for that purpose, and take, transport and carry passengers upon the same by the force or power of electricity, and construct and maintain all necessary works, buildings, appliances and conveniences connected therewith. R.S.O. 1914, c. 185, s. 229.

Freight
traffic.

230. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board. R.S.O. 1914, c. 185, s. 230.

Agreements
between
municipality
and com-
pany as to
construc-
tion, street
repairs, etc.

231. Subject to the provisions of section 260 the company and the council of any municipality in which a railway or part of a railway is proposed to be or is constructed may enter into agreements relating to:

- (a) the construction of the railway;
- (b) the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion;
- (c) the paving, macadamizing, repairing, grading and cleaning of the highways upon which the railway is proposed to be or is constructed;
- (d) the construction, opening and repairing of drains and sewers;
- (e) the laying, repairing or taking up of gas and water pipes in the highways;
- (f) the location of the railway, and the particular highways along which the same may be laid;
- (g) the pattern of rails;
- (h) the time and speed of running the cars, sleighs and other conveyances;
- (i) the fares to be charged within the maximum hereinbefore mentioned; and
- (j) the amount of compensation, if any, to be paid by the company annually or otherwise. R.S.O. 1914, c. 185, s. 231.

Municipal Street Railways.

232.—(1) The corporation of a city or town may construct, equip, maintain and operate street railways in, along and over such highways of the city or town, and subject to and upon such terms as the Board may approve; and may lease the same from time to time on such terms as may be determined on. R.S.O. 1914, c. 185, s. 232 (1); 1922, c. 67, s. 1.

Power to
operate
street rail-
ways.

(2) The powers conferred by this section shall not be exercised in respect of any highway or part of a highway in, along, or upon which a street railway company is entitled under an agreement with the corporation of the municipality to construct and operate its railway, so long as such right shall continue to exist, and any question or dispute as to whether a street railway company is so entitled shall be determined by the Board.

Not applic-
able where
previous
agreement
with a
company.

(3) In addition to the powers given and conferred by subsection 1 the corporation of a city or town operating or proposing to construct or operate a street railway within its own limits may construct, equip, maintain and operate any extension of any such street railway in any adjoining municipality with the consent of the corporation of such adjoining municipality by by-law, and upon such terms as the Board may approve.

Power to
operate
extension of
street rail-
way in
adjoining
municipality.

(4) A municipal corporation which constructs, owns or manages a street railway, including any extension in any adjoining municipality, shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under this Act, except where the same conflict or are inconsistent with or are repugnant to the rights, liabilities, powers and duties of a municipal corporation as provided by law.

Rights and
liabilities of
municipal
corporation
operating
street
railway.

(5) Nothing in this section shall relieve any municipal corporation from its obligations and liabilities in respect of highways or bridges. R.S.O. 1914, c. 185, s. 232 (2-5).

Saving as to
highways
and bridges.

233. Where, under the provisions of an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation has become or shall hereafter become entitled to grant to another company or person the right to construct and operate a street railway on any street or part of a street upon which such first mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct

Construction
and
operation
of street
railway
by municipi-
ality where
corporation
has power
to grant
franchise to
a company.

line of railway or as part of any other railway which such corporation owns or operates or has power to construct or operate. R.S.O. 1914, c. 185, s. 233.

Sunday Cars.

Street rail-
ways, etc.,
not to be
operated on
Sunday.

234.—(1) Subject to section 235 no company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity. R.S.O. 1914, c. 185, s. 234 (1).

Exceptions.

(2) This section shall not apply to any railway company or municipal corporation which now has the right to operate its street railway, tramway or electric railway on Sunday, or to the corporation of the City of London, or the London Railway Commission, in the operation of the London and Port Stanley Railway, or to the London Street Railway Company in the operation of that part of its existing line lying in the Township of London between the north limits of the City of London and Broughs Bridge, or, subject to subsection 3, to the London Street Railway Company in the operation of that part of its existing line lying in the Township of Westminster, west of the west limit of the City of London. R.S.O. 1914, c. 185, s. 234 (2); 1914, c. 21, s. 40; 1917, c. 27, s. 31; 1919, c. 44, s. 1.

Operating
cars in
Township
of West-
minster on
Sunday.

Conditions
upon which
cars may be
operated.

(3) Nothing in subsection 2 of this section shall entitle the London Street Railway Company to run any of their cars on any Sunday in the Township of Westminster, unless and until the said company has received permission from the Council of the Corporation of the City of London and from the Public Utilities Commission of the City of London by by-laws to run their cars on Sunday, and then only and subject to such terms and conditions as may be contained in such by-laws, and unless and until the said company has also entered into an agreement or agreements with the said corporation, and the said the Public Utilities Commission of the City of London, to observe the terms and conditions of the by-laws. 1919, c. 44, s. 2.

Penalty.

(4) For every train run or operated in violation of this section the company shall incur a penalty of \$400, recoverable by any person suing for the same under this section and for the purpose thereof.

Application
of penalties.

(5) All money recovered under this section shall be appropriated as follows: One-half to the plaintiff and the other to the corporation of the local municipality from which the train or car started; but if the train or car is operated by the corporation of the municipality from within the limits of

which the same started the plaintiff shall receive the whole amount so recovered.

(6) The conductor or other person in charge of any train run or operated in contravention of this section shall, for every such offence, incur a penalty not less than \$1 nor more than \$40, recoverable under *The Summary Convictions Act*. Liabilities of conductor. Rev. Stat. c. 121.

(7) This section shall apply to all electric and street railways, whether operated on a highway or on a right of way owned by the company. R.S.O. 1914, c. 185, s. 234 (3-6). Application of section.

235.—(1) Subject to subsections 2 and 3, and notwithstanding anything in this Act or any other Act, street railways may be operated on Sunday within a city having a population of over 15,000 after a majority of those voting of the electors qualified to vote at municipal elections have voted in the affirmative in answer to the question: "Are you in favour of operating street railways on Sunday?" R.S.O. 1914, c. 185, s. 235 (1); 1920, c. 56, s. 1. Operation of street cars on Sunday in city of 15,000. Submitting question to electors.

(2) The question shall not be submitted until the Lieutenant-Governor in Council has declared that the population of the city is over 15,000, and the Lieutenant-Governor in Council may require a census to be taken and may prescribe the nature of the census and the time and manner of taking the same. R.S.O. 1914, c. 185, s. 235 (2); 1920, c. 56, s. 1. Ascertaining population.

(3) When the Lieutenant-Governor in Council has declared that the population of the city is over 15,000, the question may be submitted at the annual municipal election, if the municipal council shall have decided on or before the 1st of December preceding the date of such election to submit the question, and shall not later than the 15th of December have given notice of such decision by public advertisement, for at least one week in each issue of some daily newspaper published in the municipality. R.S.O. 1914, c. 185, s. 235 (3); 1920, c. 56, s. 1. Declaration as to population conclusive.

(4) The provisions of *The Municipal Act* as to the submission of questions to the electors and the voting thereon and the imposition of penalties and the prevention of corrupt practices in connection with elections shall apply to a vote taken under the provisions of this section, but no person shall be entitled to vote more than once on the question. Application of Municipal Act. Rev. Stat. c. 233.

(5) Nothing in this section shall entitle a street railway company, which has entered into an agreement with a municipal corporation not to run cars on Sunday, to run any of their cars on any Sunday unless and until the company has received permission from the council of such corporation by by-law to run their cars on Sunday, and then only under and subject to such terms and conditions as may be contained Agreement not to be affected.

in such by-law, and unless and until the company has also entered into an agreement with the corporation to observe the terms and conditions of the by-law. R.S.O. 1914, c. 185, s. 235 (4, 5).

Hours of Labour.

Employees
not to work
for more
than six days.

236. No employee shall be required or permitted to work for more than six days of ten hours each in any one week. R.S.O. 1914, c. 185, s. 236.

Nor on two
successive
Sundays.

237. Where a railway is operated on Sunday no employee shall be required or permitted to work on any Sunday when he has worked on the previous Sunday. R.S.O. 1914, c. 185, s. 237.

Penalty.

238. For each day on which a breach of either of the two next preceding sections is committed the corporation or company offending shall incur a penalty of not less than \$25 or more than \$100. R.S.O. 1914, c. 185, s. 238.

Protection of Wires, Pipes and Cables.

Duty to erect
guard wires.

239.—(1) The company, when operating any portion of its railway across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may be reasonably possible, sufficient to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact with or falling upon the wires conveying such electricity.

Duty to
protect water
pipes, etc.,
from injury
by electricity.

(2) The company, when operating any portion of its railway by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things, placed underground from being damaged in consequence of the escape or discharge of electricity into the ground.

What to be
deemed
sufficient.

(3) Unless otherwise ordered by the Board proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with the provisions of this section.

Powers of
Board.

(4) The Board may make such order as it may deem proper to compel the proper observance of this section.

Right of
action.

(5) Any person who suffers damage by reason of the non-compliance by the company with the provisions of this section shall have a right of action against the company therefor. R.S.O. 1914, c. 185, s. 239.

Forfeiture for Non-user.

240.—(1) If a company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon its being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, and the company shall also indemnify the corporation of the municipality in respect of the expenses incurred in taking up the rails and removing the poles and wires, and putting the highways in proper repair. Forfeiture for non-user.

(2) The corporation shall have a lien upon the rails, poles, wires, rolling stock and other property of the company until such expense is paid. R.S.O. 1914, c. 185, s. 240. Lien of municipal corporation.

Additional Powers of Electric and Street Railways.

241.—(1) A company operating its railway by electricity, and a street railway company shall also have power to Powers as to production and use of electricity.

- (a) construct, maintain and operate works for the production of electricity for the motive power of the railway, and for the lighting and heating the rolling stock and other property of the company; Works.
- (b) acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary works for generating electricity for lighting, heating and power in operating the railway; Purchase of water powers.
- (c) enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway, or with any electric light or electric railway company, or any company supplying or furnishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company for constructing, carrying on or operating the railway; Arrangements for supply of power.
- (d) purchase lease or acquire by voluntary donation and to hold for any estate in the same and to sell, lease, alienate or mortgage any land or premises intended and necessary or suitable for park or pleasure grounds and to improve and lay out such land as parks or places of public resort, and enter into any agreement or arrangements with the corporations of the municipalities wherein the same are situate or any of them, in respect thereto, subject to the power of the council of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds, but Power to acquire lands for parks, etc.

Saving
as to assent
of council.

- (i) none of the provisions of this clause shall have effect unless and until the council of the municipality has by by-law declared its assent to the company's acquiring land under and for the purpose mentioned in this paragraph, and

Idem as
to Sunday.

- (ii) no such park or pleasure grounds shall be used for games, picnics, concerts, excursions or other public entertainments on Sunday;

Acquiring
rights for
conveying
electricity.

- (e) purchase the right to convey electricity for the working of the railway and lighting or heating the same over, through or under land other than the land of the company, and, with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such land as may be determined by the company, and along and upon any of the highways, or across any of the waters in Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and the owners of the land affected, and between the company and the corporation of any municipality in which such works or any part thereof or of the railway may be situate, and under and subject to any by-law of the council of such municipality passed in pursuance thereof; but such works shall not be so constructed as to incommode the public use of such highways, or so as to be a nuisance thereto, or to impede the free access to any house or other building erected in the vicinity of the same or to endanger or injuriously affect, the same or to interrupt the navigation of such waters.

As to Crown
lands, pub-
lic parks, etc.

- (2) The rights conferred upon the company shall not be exercised within the limits of any park vested in His Majesty for the use of the public, or any land vested in commissioners for any such park, without the approval of the Lieutenant-Governor in Council.

Construction
of railway
on high-
ways.

- (3) Subject to sections 246 to 252, and section 263, no railway or street railway shall be constructed or operated along any highway or public place in any municipality until first authorized by an agreement made between the company and the corporation of such municipality, and, except under and subject to the terms of such agreement and of section 260, and of any by-law of the council of the municipality passed in pursuance thereof; and in all such cases every work, matter or thing in connection with the motive power, and the

application and use thereof in so constructing and operating such railway, or the cars, carriages, engines, motors or machines thereof, shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such improved manufacture and so placed as to avoid so far as possible any danger to buildings or other property. R.S.O. 1914, c. 185, s. 241.

242.—(1) No municipal council, notwithstanding anything contained in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway until written or printed notices of the intended by-law, specifying the route to be taken by the railway, shall have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in a newspaper published in the municipality or if there is no such newspaper then in a newspaper published in a neighbouring municipality, or if there is no such newspaper then in a newspaper published in the county or district town.

Notice to be given before passing by-law authorizing construction on highways.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

Objectors to be heard by council.

(3) If, after hearing such objections as may be made, the council passes the by-law any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such petition, after hearing all parties interested, the Board shall have power to amend such by-law in such manner as to the Board may seem proper, or to quash the same.

Appeal to Board to quash or amend.

(4) The costs of such proceeding shall be in the discretion of the Board and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court.

Costs.

(5) This section shall not apply to extensions within the limits of a city or town of a street railway already constructed, nor to a by-law which requires the assent of the electors under *The Municipal Franchises Act*. R.S.O. 1914, c. 185, s. 242.

Section not to apply to certain extensions. Rev. Stat. c. 240.

243.—(1) The company may, at any point or points where its line runs along a highway, deviate from the highway to a right of way owned by the company if no obstruction of the highway is thereby caused, and if the rails on such deviation do not rise above or sink below the surface of

Power to deviate.

the highway more than one inch they shall not be deemed an obstruction.

Proviso.

(2) The right conferred by this section shall not be exercised without the consent of the Board. R.S.O. 1914, c. 185, s. 243.

Limitation of transmission of electrical energy.

244. Notwithstanding anything in this Act, or in any statute, no municipal corporation shall grant to any company any exclusive right, privilege or franchise for the transmission of electrical energy for power, light and heat over or across any highway. R.S.O. 1914, c. 185, s. 244.

Expropriation by Street Railway or Incline Railway Companies.

When expropriation of land by these companies may be allowed and to what extent.

245.—(1) Where the council of a municipality, by by-law, declares that it is of opinion that a company incorporated with power to construct a street railway or incline railway in the municipality should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the by-law, situate within the municipality, the company, upon registering the by-law in the proper registry office, shall, in respect of land lying between the points named, possess the powers conferred upon railway companies by the sections of this Act relating to the taking of land without the consent of the owner.

Limitation.

(2) Such powers shall be exercised within two years from the passing of the by-law, and not afterwards, and the land to be taken thereunder shall not exceed one chain in width.

Niagara Falls.

(3) This section shall not apply to the tract of country extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara. R.S.O. 1914, c. 185, s. 245.

Duration of Street Railway Franchises.

Limitation of duration of franchise.

246.—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years.

When municipality may assume the ownership.

(2) At the expiration of twenty-five years from the time of passing the first by-law which is acted upon conferring the right of laying rails upon any highway or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof on payment of the actual value thereof to be determined by the Board.

How value ascertained.

(3) In ascertaining such actual value the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

(4) If the corporation does not exercise such right, the corporation may exercise the like right at the expiration of any fifth year thereafter, upon giving one year's previous notice to the company, and the privileges of the company shall continue until the ownership is assumed by the corporation.

Alternative right.

(5) If a street railway extends beyond the limits of a city or town the corporation of the city or town may exercise the right conferred by this section.

Who may exercise right to purchase.

(6) The corporation purchasing shall possess the same powers and authority and be subject to the same conditions, obligations and restrictions as the company, and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway. R.S.O. 1914, c. 185, s. 246.

Position of municipality purchasing.

247.—(1) The council of any municipality into which a street railway runs may, at any time after the right of assuming the ownership of the railway accrues to a municipal corporation, require that the terms upon which the railway shall be operated in such municipality be determined; and the terms, if the company and the council of the municipality are unable to agree as to them, shall be determined by the Board, and such arrangement shall remain in force for ten years.

Municipality dissatisfied with terms as to railway in certain cases, may apply to the Board.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the railway at the expiration of any fifth year. R.S.O. 1914, c. 185, s. 247.

Re-adjustment of terms.

248. Subject to section 246 a municipal corporation purchasing may, at any time, transfer its right to its street railway lines or any of them, and the whole or any part of the plant of the railway, to any person or company authorized to operate a street railway, on such terms and conditions as may be agreed upon by such street railway company and the municipal corporation. R.S.O. 1914, c. 185, s. 248.

Municipality acquiring railway may transfer same to a company.

249. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects the provisions of the next preceding section, stand in the same position as the municipal corporation from which it received such transfer. R.S.O. 1914, c. 185, s. 249.

Position of company so acquiring.

Limitation of Company's Powers.

250.—(1) A company shall not, without having first obtained the permission and approval of the Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway.

Railway not to be constructed on highway without sanction of Board.

When Board
may with-
hold per-
mission.

(2) The Board may withhold its permission and approval where it is of opinion that it has not been made to appear that the construction or extension upon such highway or part of a highway is necessary or convenient for the public service, or where, in the opinion of the Board, it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

Additions
or altera-
tions of
line.

(3) This section shall apply to any addition to or alteration of the line of the railway as constructed, and shall apply notwithstanding the terms of any agreement between the company and any municipal corporation.

Application
to street
railway.

(4) This section shall apply to all railways however operated and to street railways. R.S.O. 1914, c. 185, s. 250.

Municipal
Franchises
Act.

251. Nothing in this Act shall authorize the passing of any by-law, the making of any agreement, the granting of any franchise or privilege, or the doing of any other thing in contravention of *The Municipal Franchises Act*. R.S.O. 1914, c. 185, s. 251.

Rev. Stat.
c. 240.

*Duration of Privileges to Operate Electric Railways along
Highways.*

Limitation of
duration of
franchise.

252.—(1) No municipal council shall grant to a company any privilege to operate its line along a highway for a longer period than twenty-five years.

Extension.

(2) At the expiration of the period for which the privilege was granted the council may extend such privilege for a further term, not exceeding twenty-five years, on such terms and conditions as may be agreed upon by the council and the company, or, with the consent of the Board, the corporation of such municipality may assume the ownership of that portion of the railway operated on the highways of such municipality upon payment of the actual value thereof, to be determined by the Board.

When muni-
cipality may
assume own-
ership.

Value.

(3) In ascertaining such actual value the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

Notice of
intention to
take over
railway.

(4) The corporation shall not have the right to assume such ownership unless notice of the intention so to do has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipal corporation assume such ownership without the consent of the Board.

Application
of section.

(5) This section shall only apply to electric railways that are not street railways. R.S.O. 1914, c. 185, s. 252.

Fenders, Brakes, etc.

253.—(1) A company operating any portion of its line by means of electricity along a highway shall from time to time adopt and use in the front of each motor car a fender or guard, and shall from time to time adopt and use a brake and other life-saving appliances of a design approved from time to time by the Board. Approval of fenders and other appliances.

(2) The fender, guard, brake or other life-saving appliance so approved of by the Board shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending such time. Adoption.

(3) Where the cars are equipped with fenders of a class so approved by the Board the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement. Use of approved fenders.

(4) The company shall pay to the corporation of the municipality in which such railway is operated the sum of \$10 for each day in which any motor car is operated within such municipality without having such a fender, guard, brake or other life saving appliance thereon, except in cases of accident or unavoidable necessity. Penalties for not providing fenders, etc.

(5) If the Board so orders the company shall allow tests to be made on any of its motors or cars, of any fender, guard, brake or other life-saving appliance which the Board deems advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed. R.S.O. 1914. c. 185. s. 253. Tests of fenders, brakes, etc.

Conveniences, etc.

254.—(1) Every street railway company and incline railway company shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company operating its cars. Conveniences for street railway employees.

(2) Such urinals and other conveniences may be located upon land owned or provided by the company and reasonably accessible to each of the lines of railway operated by the company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the company shall be allowed reasonable opportunity of access thereto. Location.

(3) The company shall incur a penalty of \$10 per day for each day upon which it neglects to provide such urinals or other conveniences. Penalty for not supplying.

Cost of providing conveniences.

(4) The Board shall determine whether the cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both, and if by both the proportions in which the same shall be borne by them respectively, in case the parties are unable to agree, as may be determined by the Board.

City or town may be ordered to provide site.

(5) The Board may order the city or town to provide the site for such urinals or other conveniences, upon such terms as to cost and otherwise as the Board may determine.

Board may order conveniences to be open to the public.

(6) When so ordered by the Board such urinals and conveniences shall be open to the public as well as to the employees of the company, and when so open the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as may be deemed proper. R.S.O. 1914, c. 185, s. 254.

Sanitary conveniences on cars.

255.—(1) The Board may order a company to provide sanitary conveniences for the use of passengers on all passenger cars.

Application.

(2) This section shall only apply to electric railways that are not street railways, and to steam railways. R.S.O. 1914, c. 185, s. 255.

"Pay as You Enter" System.

Conditions upon which "pay as you enter" cars may be operated.

256.—(1) What is known as the "pay as you enter system" of collecting fares shall not be operated on any street railway car unless the design of the car has been approved by the Board.

Penalty.

(2) Every company or person who contravenes this section shall therefor incur a penalty of \$100 per day for each car operated contrary to the provisions of this section. R.S.O. 1914, c. 185, s. 256.

One man as motorman and conductor.

257. No street railway car or electric railway car, when engaged in carrying passengers, shall be operated with one man performing the duties of both motorman and conductor, without the approval of the Board; and the Board may make orders and regulations in respect of the construction and operation of such cars and may define and limit the routes upon which they may be operated. 1918, c. 30, s. 3.

Unclaimed Property.

Notification of owner.

258.—(1) Where unclaimed property is left in a car the company shall ascertain if possible the owner of it, and as soon as possible after such property comes into its possession, notify him of the fact by mail and of the place where the property may be claimed.

(2) Every company which has such property, not being perishable property, in its possession for three months may sell the same at public auction, after giving notice by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or town in which the sale is to take place, of the time and place at which it will be held, and such sale may be adjourned from time to time until all the articles are sold. Disposal of non-perishable property.

(3) Perishable property so left may be immediately sold without notice. Perishable property.

(4) The places at which the property may be claimed shall be subject to the approval of the Board. R.S.O. 1914, c. 185, s. 257. Places of deposit.

Transfer in Ownership of Highways.

259. Where a railway, operated by electricity upon a highway or a portion thereof which is so operated, has been or shall hereafter be, constructed in a municipality under an agreement with the corporation thereof, or with the corporation having the control of the highway, and the territory or any part of the territory, in which such railway has been, or shall be constructed, is subsequently annexed to another municipality, or the highway along which such railway has been or shall be constructed, has ceased to be owned or controlled by the corporation of one municipality, and has become vested in or has been placed under the control of another corporation, then, so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal thereof, the corporation of such last mentioned municipality, and any officer or person appointed for such purpose, shall be substituted for and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement and any officer or person charged with the performance of any duty thereunder in respect of the matters aforesaid. R.S.O. 1914, c. 185, s. 258. Agreements with companies as to certain matters to ensure for benefit of municipality owning road.

Agreements with Municipalities for Operating Along Highways.

260. Any agreement between a municipal corporation and a company under which the company obtains a right or franchise to operate its railway along a highway, except so far as such provisions are expressly excluded by such agreement, shall be deemed to contain provisions that Clauses to be included in agreements.

(a) the rails of the company shall conform to the grade of the highway;

Rails to be
flush with
street, etc.

- (b) where the rails are laid upon the paved or travelled portion of a highway, or on any part thereof, they shall be laid as nearly as practicable flush with the highway, and so as to cause the least possible impediment to the ordinary traffic, and shall be so kept and maintained by the company;

Company to
keep road-
way in
repair.

- (c) the company, so long as it uses any of its tracks on the travelled portion of a highway, shall keep in repair the whole space used on its track allowances, crossings, switches and turnouts and eighteen inches of the highway outside of its tracks;

Company
neglecting
to repair.

- (d) if the company neglects to keep in repair its track allowances and crossings, switches and turnouts or to have the necessary repairs according to the agreement made thereon, the council may give notice to the company requiring such repairs to be made forthwith, and the certificate of the engineer, appointed by the council for the time being, as to the necessity for such repairs shall be binding and conclusive upon the company, and if, after giving such notice, the company does not within one week begin, and thereafter, with all reasonable diligence, carry such work of repairing to completion, the council shall have the right to cause such repairs to be made, and the company shall pay to the treasurer of the municipality the expenditure incurred in making or completing such repairs;

Penalty.

- (e) the payment of such amount shall not relieve the company from any penalty provided for the omission to repair by the agreement between the corporation and the company;

Speed.

- (f) a car or train of cars shall not be operated on the travelled portion of any highway at a greater speed than fifteen miles an hour unless authorized by the Board, and it shall be operated at a less rate of speed if so ordered and directed by the Board;

Intersecting
roads.

- (g) at the intersection of the railway with highways crossing or intersecting the highway upon which the railway is operated the company shall construct and keep in repair crossings of a similar character to those adopted by the municipal corporation, and shall construct underneath its track allowance such culverts and waterways as are, in the opinion of the council or its engineer or other officer appointed for that purpose, necessary for drainage purposes, and shall at the entrance to private properties abutting upon the railway con-

Culverts.

struct such approaches as may be directed by the council or such officer or by the Board;

- (h) when the tracks are built over a culvert, the company shall, when so directed by the council or such engineer or other officer or by the Board, extend such culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the nearest track and the end of the culvert upon the side of the highway opposite to such track; Width of culverts.
- (i) the company shall remove the snow from and within its tracks and switches, but any snow put upon the graded part of the highway by the company shall be evenly spread thereon in a manner to be approved by the council or its engineer or other officer; Removal of snow.
- (j) the council may at any time, after giving to the company twenty days' notice of its intention so to do, take up any part of the highway upon which the railway is constructed for the purpose of altering the grade of the highway, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the jurisdiction and authority of a municipal corporation without being liable for any compensation for damage that may be occasioned to the working of the railway or the works connected therewith; Taking up streets by municipality.
- (k) when and so often as it may be necessary for the corporation to open up a highway for the purpose of repairing it or any sewer, drain, culvert, gas or water pipe, or underground wire, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be unnecessarily delayed, but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof; Notice of council's intention.
- (l) all work done by the company, under the authority of the agreement, shall be done in the most substantial manner and according to the best modern practice and under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose with a right of appeal to the Board; Work to be done to satisfaction of municipality's engineer.
- (m) the alignment of the company's tracks, the location of switches and turn-outs and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer; Alignment, switches, turn-outs and grades.

Company to
pay for
engineer.

(n) the company shall repay to the corporation all sums paid by it to such officer or engineer for services performed by him in connection with the company's work;

Right of
public to
use track
allowances.

(o) all persons using the highway shall be at liberty to travel upon any part of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description shall be allowed upon such portion of the highway, but the company's cars shall have the first right of way over the railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass, and any person refusing or neglecting so to do shall incur a penalty not exceeding \$10, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 259.

Rev. Stat.
c. 121.

Remedy for Breach of Agreement.

Board to
try all
cases of
breach of
agreement.

261.—(1) Where a railway or street railway is operated in whole or in part upon or along a highway under an agreement with a municipal corporation, and it is alleged that such agreement has been violated, the Board shall hear all matters relating to such alleged violation and shall make such order as to it may seem just, and by such order may direct the company or person operating the railway, or the municipal corporation, to do such things as the Board deems necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as in its opinion constitute a violation thereof.

May enter
company's
property and
exercise
functions of
directors.

(2) The Board may take such means and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of the company together with its books and offices, and may, for that purpose, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of such company and supervise and direct the management of such company and its railway in all respects, including the employment and dismissal of officers and servants of the company, for such time as the Board shall continue to direct such management.

Company's
servants to
obey Board.

(3) Upon the Board so taking possession of such railway and property, it shall be the duty of every officer and employee of the company to obey the orders of the Board or of such person as it may place in authority in the management of any or all departments of such railway.

(4) The Board shall, upon taking possession, have power to demand and receive all money due to and to pay out all money owing by the company, and may give cheques, acquittances and receipts for money to the same extent and in as full and ample a manner as the proper officers of the company could do if no such order had been made.

Power of Board to pay out and receive money.

(5) Cheques, acquittances or receipts given by the Board shall be a defence to any action that may afterwards be brought by the company against the person or corporation paying over the money for which such cheques, acquittances or receipts were given.

Effect of such.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section.

Board not liable for damages.

(7) The expenses of and incidental to proceedings taken by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid.

Costs.

(8) The certificate of the Board as to the amount of such expenses shall be final. R.S.O. 1914, c. 185, s. 260.

Idem.

262.—(1) The Board, for the purpose of enforcing compliance with any order heretofore or hereafter made by it, requiring any railway company, operating a railway or street railway in whole or in part upon or along a highway under an agreement with a municipal corporation, to furnish additional cars or equipment for its service, in addition to any other powers possessed by it, may order such company to pay to the corporation of the municipality in which the company so operates, a penalty not exceeding \$1,000 a day for non-compliance with any such order

Penalty for failure to supply additional cars.

(2) An appeal from any such order or from the refusal by the Board to make an order, shall lie to the Appellate Division at the instance of either the said corporation or the said company and the judgment of the said Appellate Division shall be final and binding, and no further appeal shall be allowed.

Appeal from order of Board.

(3) Notice of such appeal may be given within ten days after the date of the order of the Board, or of the refusal of the Board to make an order. 1918, c. 30, s. 4, *part*.

Notice of appeal.

Radial Lines.

263.—(1) Notwithstanding anything in this Act the railway shall not be constructed along any highway within the limits of any city or town except upon and subject to such terms and conditions as have been agreed upon between the company and any street railway or electric railway company, already operating in such city or town, and the corporation of such city or town.

Conditions of operating in cities and towns.

Saving of
existing
agreement.

(2) If there is an existing agreement between the corporation of such city or town and such street railway or electric railway company, the railway shall not be constructed along any such highway in contravention of the provisions of the agreement.

Terms
governing
admission
of other
railways.

(3) Where no provision is contained in the agreement for the admission of other electric or street railways then, if the council of such city or town, by by-law or resolution, requests the street railway company or electric railway company already operating in the city or town to allow its tracks or any of the highways to be used for the entrance of such other railway, or if such street railway company or electric railway company or such other railway company, by by-law or resolution, requests the council of the city or town to permit the entrance of the railway, the company so operating shall permit its tracks or any highways to be used to some central point in the city or town, and the corporation shall permit such other railway to enter within the limits of such city or town, upon such terms and conditions as to compensation, location of the central point, and otherwise as may be agreed upon between such other railway company, the council and such street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the companies are unable to agree upon the same.

Grant of
franchise to
radial rail-
way not to
extend be-
yond street
railway
company's
franchise.

(4) Nothing in this section shall, without the consent of the corporation of the city or town, confer upon a company any right or privilege to so operate its railway for a longer period than the unexpired term of the franchise or privilege held or enjoyed by the company which, at the date of application to the Board under this section, is operating a railway or street railway within the limits of such city or town.

Renewal of
agreements.

(5) At the expiration of such term a new agreement granting the right or privilege may be made for a further period not exceeding twenty-five years, and in the event of the parties being unable to agree the Board may, in its discretion, order a new agreement to be made upon such terms and conditions as shall be determined by the Board.

Rights of
municipality
as to taking
over rail-
way not
affected.

(6) This section shall not confer upon the Board power to vary or annul any provision in the agreement, or in the order of the Board allowing the entrance of such other railway, which grants to the corporation of the city or town the right to take over and assume the ownership of such other railway within the limits of such city or town on the expiration of any such term. R.S.O. 1914, c. 185, s. 261.

Application
of street
railway
sections to
radial
lines operat-
ing in city
or town.

264. A company operating its railway in a city or town shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by law of the city or town, be subject as to that portion of the railway within the limits of such city or town to the provisions of this Act respecting the construction and operation of street railways. R.S.O. 1914, c. 185, s. 262.

Examination of Motormen.

265.—(1) No person shall be employed as a motorman on any railway or street railway operated by electricity until he has been subjected to a thorough examination by an examiner or examiners, to be approved by the Board, as to his habits, physical ability and intelligence, and has undergone such training as may be prescribed by the Board, by regulation applicable generally or to the particular railway, and the examiner has reported to the Board that such person is competent to fill the position of motorman.

Examination of applicants for positions as motormen.

(2) He shall then be placed on a car with an instructor and when the examiner is satisfied as to his capability for the position of motorman he shall so certify to the Board, and, if such person is employed, he shall, so far as reasonably possible, first serve on the lines of least travel.

Certificate by instructor as to capability.

(3) The company shall pay for the services of the examiner.

Payment of examiner.

R.S.O. 1914, c. 185, s. 263.

EXAMINATION FOR COLOUR BLINDNESS.

266.—(1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless, within two years next preceeding his appointment, he has been examined for colour blindness on the disinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by some competent person employed for the purpose by the company and approved by the Board, and has received a certificate that he is not disqualified for such position by reason of colour blindness or otherwise in respect of his eyesight.

Examination as to eyesight.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

Periodical re-examination.

(3) Nothing in this section shall prevent the company from continuing in its employment any person having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the person making the examination.

When defect can be remedied by glasses.

(4) For every contravention of this or the next preceding section the company shall, for each offense, incur a penalty of \$100. R.S.O. 1914, c. 185, s. 264.

Penalty.

*ACTIONS FOR DAMAGES.**Limitation, Inspection.*

267.—(1) Subject to subsection 4 of section 139 all actions for indemnity, or for any damages or injury sustained by reason of the construction or operation of the railway, shall be commenced within one year next after the time when such

Limitation.

supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

Certain
actions
excepted.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

Company
not relieved
by reason of
inspection,
etc.

(3) No inspection had under this Act, and nothing in this Act and nothing done or ordered, or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from or in any wise diminish or affect any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance, or non-feasance, of such company. R.S.O. 1914, c. 185, s. 265.

Contracts Waiving Rights, Void.

Contracts
waiving
right of
employees
damages to
void.

268.—(1) No company owning or operating a railway in whole or in part in Ontario shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect.

Not to be
entered into.

(2) No such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void.

Penalty.

(3) Every company contravening or aiding in the contravention of this section shall, for each offence, incur a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction by any person suing therefor.

Company
not to
operate
defective
machinery.

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. R.S.O. 1914, c. 185, s. 266.

WAGES OF LABOURERS.—SUBSIDIES.

269.—(1) Where this Legislature has heretofore granted or hereafter grants financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed; and if there is no current rate in such locality, then a fair and reasonable rate.

Rate of wages of labourers on construction of lines subsidized by Legislature.

(2) If a dispute arises as to what is such current rate, or a fair and reasonable rate, it shall be determined by the Board whose decision shall be final. R.S.O. 1914, c. 185, s. 267.

Decision of Board final.

270.—(1) In this section,

Interpretation.

(a) "Settlers" and "Prospectors" shall include a person who produces evidence to the proper officer of the railway company that he is an intending settler or prospector, as the case may be, in a district through which such railway runs, which evidence shall be deemed sufficient if it complies with the requirements of any Order in Council in that behalf, and shall also mean and include every member of the family of a settler or prospector residing with him using such railway or any part thereof in connection with such prospecting and settling;

"Settlers." "Prospectors."

(b) "Toll" shall include any rate or charge for any passenger, animal, vehicle, goods, merchandise, or thing conveyed on the railway.

"Toll."

(2) Every subsidy heretofore granted out of the Consolidated Revenue Fund in aid of any railway, as to any part thereof which is still unearned, and every such subsidy hereafter granted, in addition to all other lawful requirements, shall be subject to any conditions which may be imposed by the Lieutenant-Governor in Council respecting the tolls to be charged to "Settlers" or "Prospectors" using any such subsidized railway or any part thereof in connection with their prospecting and settling in any district through which the railway runs, either for freight or passenger service.

Subsidies to be subject to certain conditions as to special rates to settlers, etc.

(3) In default of compliance with such conditions, or any of them, there may be deducted and retained from any money payable in respect of such subsidy such amount as the Lieutenant-Governor in Council may deem proper, and the railway company or any assignee of a railway company claiming such subsidy shall not be entitled to receive payment of the same, or if such subsidy has been paid over prior to such default the company operating such railway shall forfeit such part thereof as may be determined by the Lieutenant-Governor in Council and the same may be recovered back

Default.

Deduction from subsidy.

Recovery. from such company at the suit of the Attorney-General in any court of competent jurisdiction.

Current wages. (4) Every such subsidy shall further be subject to the condition that the workmen, labourers or servants employed in or about the construction and operation of the railway shall be paid such rate of wages as may be currently payable to workmen, labourers and servants engaged in similar occupations in the district in which such railway is constructed and operated, and upon breach of such condition by the railway company there may be deducted and retained from any money payable in respect of such unearned subsidy such amount as the Lieutenant-Governor in Council may deem proper, and if the subsidy has been paid over before such breach such part thereof as may be determined by Order in Council may be recovered back from such railway company at the suit of the Attorney-General in any court of competent jurisdiction.

Where supplies to be purchased. (5) Every railway company entitled to a subsidy either in money or in land under any Act of this Legislature, the whole or part of which is still unearned, shall, as far as practicable, construct, equip and operate its lines of railway with railway supplies and rolling stock made, purchased or procured in Canada, if the same can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality, unless the Lieutenant-Governor in Council approves of the same being procured elsewhere.

Alien Labour. (6) No person shall be employed in the construction of any railway receiving a subsidy either in money or in land who is a citizen or subject of any country having an alien labour law which has the effect of excluding Canadians from employment upon the public works of such country or on other works therein.

Penalty. (7) For every contravention of subsection 6 the company shall incur a penalty of \$20 per day for each person so employed during the whole period of such employment. R.S.O. 1914, c. 185, s. 268.

Subsidized railways must be in safe and efficient condition. **271.**—(1) Whenever it is made to appear to the Provincial Secretary that any railway owned by a company incorporated by Act of this Legislature, the construction of which has been aided by a subsidy from the Government of Ontario, cannot by reason of the condition of such railway or of its equipment be safely and efficiently operated, the Provincial Secretary may apply to the Board for an order that the railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable; and the Board may, by order, direct what repairs, improvements or additions shall be made

Application to Board.

to the railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

(2) If the company fails to comply with such order of the Board the Lieutenant-Governor in Council may, upon the recommendation of the Provincial Secretary, approve of such order, and direct that a copy of such order and of the order of the Lieutenant-Governor in Council approving thereof, certified by the secretary of the Board and the Clerk of the Executive Council respectively, shall be filed by the Provincial Secretary in the office of the registrar of deeds of each county through which such railway runs, and upon such orders being so filed there shall, *ipso facto*, be created a first lien or mortgage upon the railway and its equipment in favour of His Majesty for the amount of the subsidy, which shall immediately thereupon become due and payable to His Majesty.

On failure of company to comply with order, a lien may be created.

(3) Such lien may be enforced by His Majesty in the same manner and by the like proceedings as any other lien upon property may be enforced by His Majesty in the Supreme Court, and the said court may order such railway and its equipment to be sold to satisfy such lien, and pending such lien may appoint a receiver to manage and operate such railway.

Enforcement of lien.

(4) Any money realized from such sale may, with the consent of the purchaser, be applied by the Provincial Secretary, under the direction of the Board, towards the repair and improvement of such railway and equipment so far as the same may be deemed necessary by the Provincial Secretary, and any money so realized, and not in the opinion of the Provincial Secretary required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for bondholders, in the event of there being outstanding bonds secured by mortgage or otherwise upon such railway. R.S.O. 1914, c. 185, s. 269.

Application of money realized.

HOURS OF LABOUR.

272. No company operating a line of railway, of twenty miles in length or over, shall require or permit a conductor, engineer, motorman, fireman, trainman, despatcher or signalman who has worked in any capacity for sixteen consecutive hours to go again on duty to perform any kind of work unless he has had at least six hours' rest. R.S.O. 1914, c. 185, s. 270.

Limit of duration of continuous employment.

273.—(1) The Board may regulate the hours during which conductors and motormen, employees of a street railway company, may be required or permitted to work, but in no case shall an employee be permitted to work more than six days in a week or ten hours per day, and, whenever practicable and reasonable, such ten hours' work shall be performed within twelve consecutive hours.

Power to regulate labour of street railway employees.

Agreements
not to affect
power to
regulate.

(2) The power conferred by subsection 1 may be exercised notwithstanding the provisions of any agreement between a municipal corporation and a railway company as to hours of labour.

Penalty.

(3) Every company which, and every director, superintendent, manager or officer of a company who contravenes the provisions of any order of the Board, made under the authority of subsection 1, or contravenes any of the provisions of this section, shall, for each contravention, incur a penalty of not less than \$100 nor more than \$250, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 271.

Rev. Stat.
c. 121.

RETURNS.

Annual
returns
to be pre-
pared.

274.—(1) Every company shall annually prepare returns in duplicate, in accordance with the forms for the time being required and furnished by the Board, of its capital, traffic, and working expenditure, and of all other information required.

Attestation.

(2) Such returns shall be dated and signed by, and attested upon the oath of the secretary or some other chief officer of the company, and shall also be attested upon the oath of the president, or in his absence of the vice-president or manager of the company. R.S.O. 1914, c. 185, s. 272, (1,2).

What period
to be
included.

(3) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company extend, or if no such returns have been previously made from the commencement of the operation of the railway and ending with the last day of December in the preceding year. R.S.O. 1914, c. 185, s. 272 (3); 1922, c. 66, s. 3 (1).

When to
be made.

(4) The duplicate so dated, signed and attested in manner aforesaid shall be transmitted by the company to the Board by registered post within three months after the 30th day of November in each year. R.S.O. 1914, c. 185, s. 272 (4); 1922, c. 66, s. 3 (2).

Transmission
of returns to
Assembly.

(5) The Board shall transmit the returns so made to the Provincial Secretary and the same shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not then in session within fifteen days after the commencement of the next session. R.S.O. 1914, c. 185, s. 272 (5).

Return of
accidents to
be made
annually.

275.—(1) Every company shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return in duplicate of all accidents and casualties, whether to persons or to animals or other property, which have occurred on the property of the

company or in connection with the operation thereof, setting forth—

- (a) the causes and natures of such accidents and casualties;
- (b) the points at which such accidents and casualties occurred, and whether by night or by day; and
- (c) the full extent of such accidents and casualties, and all the particulars thereof. R.S.O. 1914, c. 185, s. 273 (1).

(2) Such return shall be made for the period beginning from the date to which the then last return made by the company extended, or, if no such return had been previously made, from the commencement of the operation of the railway and ending with the last day of December in the current year. R.S.O. 1914, c. 185, s. 273 (2); 1922, c. 66, s. 4. What period to be included.

(3) Every company shall also, when required by the Board, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on. R.S.O. 1914, c. 185, s. 273 (3). Copies of by-laws to be furnished.

276. The Board may order and direct any company to make up and deliver to the Board from time to time, in addition to such periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for its information with a view to public safety. R.S.O. 1914, c. 185, s. 274. Additional returns of accidents.

277. The Board may order and direct the form in which such returns shall be made. R.S.O. 1914, c. 185, s. 275. Forms.

278.—(1) The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent, to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires, Returns to Board of

- (a) the assets and liabilities of the company; Assets and liabilities.
- (b) the amount of its stock issued and outstanding and the date at which any such stock was so issued; Of stock issued and outstanding.
- (c) the amount and nature of the consideration received by the company for such issue, and in case the whole of such consideration was not paid to the Consideration for issue.

company in cash, the nature of the service rendered to or property received by the company for which any stock was issued;

Of earnings and expenditure.

(d) the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made;

Of bonuses.

(e) the amount and nature of any bonus, gift or subsidy received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given;

Of bonds.

(f) the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed;

Consideration for bonds.

(g) the amount and nature of the consideration received by the company for the issue of such bonds;

Of secured liabilities.

(h) the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created;

Of cost of construction.

(i) the cost of construction of the company's railway or of any part thereof;

Of cost of property.

(j) the amount and nature of the consideration paid or given by the company for any property acquired by it;

Of leases and contracts.

(k) the particulars of any lease, contract or arrangement entered into between the company and any other company or person; and

Generally.

(l) generally, the extent, nature, value and particulars of the property, earnings, and business of the company.

Powers of Board as to evidence respecting returns.

(2) The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any inquiry which the Board deems it expedient to make in connection with any of the matters in this section mentioned, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person.

Or on inquiries respecting same.

Production of documents.

(3) Any information furnished to the Board by any such return, or any evidence taken by the Board in connection therewith, shall not be open to the public or published, but shall be for the information of the Board only.

Information
for Board
only.

(4) The Lieutenant-Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in manner aforesaid.

Or for
Lieut.-Gov
ernor in
Council.

(5) The Board may authorize any part of such information to be made public when and in so far as there may appear to the Board to be good and sufficient reasons for so doing, but if the information so proposed to be made public by the Board is of such a character that the company would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize such information to be published without notice to the company and hearing any objection which the company may make to such publication. R.S.O. 1914, c. 185, s. 276.

Board may
authorize
publication.

279. If any company or officer, servant or agent thereof fails or neglects to make any of the returns required by this Act or by the Board under the authority thereof when and as required by the Board, or fails to make any such return to the utmost of its or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall severally incur a penalty recoverable under *The Summary Convictions Act* not exceeding \$10 for every day during which such default continues. R.S.O. 1914, c. 185, s. 277.

Refusal to
make returns

Penalties.
Rev. Stat.
c. 121.

280.—(1) If any company, or officer, servant or agent thereof wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant or agent offending shall be severally liable to a penalty not exceeding \$500, recoverable under *The Summary Convictions Act*.

Making false
returns
to Board.

Rev. Stat.
c. 121.

(2) Every such officer, servant or agent so offending shall also, on conviction, be liable to imprisonment for any period not exceeding six months. R.S.O. 1914, c. 185, s. 278.

Penalty.

INVESTIGATION OF ACCIDENTS.

281.—(1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with personal injury to any person using the railway or to any employee of the company, or whereby any bridge, viaduct, culvert or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

Notice of
accident.

Penalty for omission.

(2) Every company which wilfully and negligently omits to give such notice shall incur a penalty of \$100 for every day during which the omission to give the same continues.

Form of notice and investigation into accidents.

(3) The Board may, by regulation, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

Inquiries.

(4) The Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Order thereupon.

(5) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

Inclusion in annual report.

(6) The Board shall include in its annual report to the Lieutenant-Governor in Council the result of any such enquiry with such recommendations as to it may seem proper. R.S.O. 1914, c. 185, s. 279.

When admissible as evidence.

282. Returns and notices relating to accidents made or given in pursuance of the provisions of this Act shall not be admissible in evidence in any court except to enforce the penalties for failure or neglect to furnish a return where it is incomplete or inaccurate. R.S.O. 1914, c. 185, s. 280.

ANIMALS AT LARGE.

Damages caused to or by cattle on railway.

283.—(1) When any horse, sheep, swine or other cattle at large, whether upon the highway or not, get upon the property of the company and by reason thereof damage is caused to or by such animal the person suffering such damage shall, subject to the provisions of the next following section, be entitled to recover the amount of such damage in any court of competent jurisdiction unless the company establishes that such animal got at large through the negligence or wilful act or omission of the owner or his agent, or of the custodian of such animal or his agent; but nothing herein shall be construed as relieving any person from the penalty imposed by section 285.

Proviso.

Cattle not allowed at large near railway.

(2) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway within half a mile of the intersection of such highway with any railway at rail-level, unless they are in charge of some competent person or persons to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

When killed on property of company.

(3) The fact that any such animal was not in charge of some competent person shall not, if the animal was killed or

injured upon the property of the company and not at a point of intersection with the highway, deprive the owner of his right to recover.

(4) All horses, sheep, swine or other cattle found at large contrary to the provisions of this section may, by any person who finds them at large, be impounded in the pound nearest to the place where the same are so found, and the pound-keeper with whom they are impounded shall detain them in like manner, and subject to like regulations as to the care and disposal thereof as in the case of cattle impounded for trespass on private property. Cattle may be impounded.

(5) If the horses, sheep, swine or other cattle of any person, which are at large contrary to the provisions of this section, are killed or injured by any train at such point of intersection he shall not have any right of action against any company in respect of the same being so killed or injured. Right of action negatived.

(6) This section shall apply only to railways operating by steam or electricity upon a right of way owned by the company. R.S.O. 1914, c. 185, s. 281. Application of section.

284. No person who suffers damage, proveable under the next preceding section or by reason of the company failing to comply with section 114, shall have any right of action against such company for such damage if it was caused by reason of any person No right of action if

- (a) for whose use any farm crossing is furnished failing to keep the gates at each side of the railway closed when not in use; or, gates not closed.
- (b) wilfully leaving open any gate on either side of the railway provided for the use of any farm crossing, without some person being at or near such gate to prevent animals from passing through the gate on to the railway; or Or wilfully left open.
- (c) other than an officer or employee of the company while acting in the discharge of his duty taking down any part of a railway fence; or Or fence taken down.
- (d) turning any such horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person using all reasonable care and precaution to avoid accidents; or, Or cattle turned within railway enclosure.
- (e) except as authorized by this Act, without the consent of the company, riding, leading or driving any such horse, sheep, swine or other cattle, or suffering the same to enter upon any railway, and within the fences and guards thereof. R.S.O. 1914, c. 185, s. 282. Or railway used without consent.

OFFENCES AND PENALTIES.

Offences.

285. Every person whoLeaving
gates open.

- (a) wilfully leaves open any gate on either side of the railway, provided for the use of any farm crossing, without some person being at or near such gate to prevent animals passing through it on to the railway; or,

Taking down
fences.

- (b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence; or

Turning
animals
into railway
inclosure.

- (c) turns any horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person, using all reasonable care and precaution to avoid accidents; or

Allowing
animals to
go upon
railway.

- (d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, sheep, swine or other cattle, or suffers any such horse or animal to enter upon the railway, and within the fences and guards thereof,

Penalty.
Rev. Stat.
c. 121.

shall for every such offence incur a penalty of \$20, recoverable under *The Summary Convictions Act*.

Damages to
the company.

(2) Every such person shall also be liable to the company for any damage to the property of the company, or for which the company may be responsible by reason of any such act or omission.

Damages to
person
injured.

(3) Every person guilty of any offence under this section shall, in addition to the penalty and liability therein provided, be liable to pay to any person injured by reason of the commission of such offence all damages thereby sustained. R.S.O. 1914, c. 185, s. 283.

Purchasing
stock in
other com-
panies.

286.—(1) No company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock or in the acquisition of any shares, bonds or other securities issued by any other railway company; but this shall not affect the powers or rights, if any, which any company in Ontario now has or possesses by virtue of any special Act to acquire, have or hold shares, bonds or other securities of any railway company.

- (a) The acquisition of each share, bond or other security, or interest, shall be deemed a separate contravention of this subsection.

(2) Every director of a railway company who knowingly permits the funds of such company to be applied, either directly or indirectly, in contravention of subsection 1 shall incur a penalty of \$500 for each such contravention.

Liability of directors.

(3) Such penalty shall be recoverable on information filed in the name of the Attorney-General, and one-half thereof shall belong to His Majesty and the other half thereof shall belong to the informer. R.S.O. 1914, c. 185, s. 284.

Penalty,—
recovery
and appli-
cation.

287.—(1) Every person not connected with the railway, or employed by the company, who walks along the track thereof, except where the same is laid across or along a highway, shall incur a penalty not exceeding \$10, recoverable under *The Summary Convictions Act*.

Walking
on track
prohibited.

Penalty.
Rev. Stat.
c. 121.

(2) Every person who

(a) wilfully breaks down, injures, weakens or destroys any gate, fence, erection, building or structure of a company; or

Destruction
of fences,
bridges, etc.

(b) removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of a company, or any section of or extract from this Act or any other Act of this Legislature which a company or any of its officers or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway;

Defacing
notices, etc.

(c) enters upon any railway train without the knowledge or consent of an officer or servant of the company with intent fraudulently to be carried upon such railway train without paying fare thereon;

Fraudulently
attempting
to travel
without
paying fare.

(d) wilfully obstructs or impedes any officer or agent of any company in the execution of his duty upon any train, railway, or upon any of the premises of the company; or,

Obstructing
railway
authorities.

(e) not being an employee of the company, wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes,

Trespassing.

shall incur a penalty not exceeding \$50, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 285.

Penalty.
Rev. Stat.
c. 121.

288. Any person who uses any highway crossing at rail level for the purpose of passing on foot along such highway across the railway, except during the time when such highway crossing is used for the passage of carriages, carts, horses, sheep, swine or cattle along such highway, shall incur a pen-

Using level
crossings.

Penalty

Rev. Stat. c. 121. alty not exceeding \$10, recoverable under *The Summary Convictions Act* if

If foot-bridge. (a) the company has erected and completed, pursuant to the order of the Board, over its railway at or near, or in lieu of, such highway crossing a foot bridge, or foot bridges, for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges; and

Maintained. (b) such foot bridge is maintained, or such foot bridges are maintained, by the company in good and sufficient repair. R.S.O. 1914, c. 185, s. 286.

Penalty for erection, etc., of structures in violation of this Act. **289.** Every company which erects, operates or maintains any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act or of any order or regulation of the Board, shall, for each offence, incur a penalty of \$50. R.S.O. 1914, c. 185, s. 287.

Liability of company, directors, etc., in certain cases. **290.**—(1) Any company, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such company, that does, causes or permits to be done any matter, act or thing contrary to the provisions of this or the special Act, or to the orders or directions of the Lieutenant-Governor in Council, or of the Board made hereunder, or omits to do any matter, act or thing thereby required to be done on the part of any such company or person, shall, if no other penalty is provided in this or the special Act for any such act or omission, incur, for each offence, a penalty of not less than \$20 and not more than \$5,000, in the discretion of the court before which the same is recoverable.

Penalty.

Liability for damage. (2) Such company, director, officer, receiver, trustee, lessee, agent or person shall also, in any case, in addition to any such penalty, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages shall not be subject to any special limitation, except as expressly provided for by this or any other Act. R.S.O. 1914, c. 185, s. 288.

Selling liquor to railway employees on duty. **291.** Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty shall incur a penalty not exceeding \$25 recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 289.

Rev. Stat. c. 121.

Intoxication while on duty. **292.** Every conductor, locomotive engineer, motorman, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated or under the influence of liquor while on duty,

in charge of or in any employment having to do with the movement of trains upon any railway, shall incur a penalty not exceeding \$400, recoverable under *The Summary Convictions Act*, and shall, upon conviction, also be liable to imprisonment for any term not exceeding five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. R.S.O. 1914, c. 185, s. 290.

293. Every person who wilfully or negligently violates any lawful by-law, rule or regulation of the company shall incur, on summary conviction, for each offence a penalty not exceeding the amount therein prescribed or, if no amount is so prescribed, a penalty not exceeding \$20, recoverable under *The Summary Convictions Act*, but no such person shall be convicted of any offence unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in some conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train. R.S.O. 1914, c. 185, s. 291.

294. Every person who unlawfully

- (a) bores, pierces, cuts, opens or otherwise injures any cask, box or package which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods in, on or about any car, waggon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any company, or

- (b) drinks or wilfully spills or allows to run to waste any such liquors or any part thereof

shall incur a penalty not exceeding \$20, recoverable under *The Summary Convictions Act*, and shall be liable to the person aggrieved for any damages sustained by reason of such wrongful act. R.S.O. 1914, c. 185, s. 292.

295. Every person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric railway company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections or structures with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the said wires, or without authority climbs any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces

Penalty.
Rev. Stat.
c. 121.

Contraven-
tion of rules
of company.
Penalty.

Rev. Stat.
c. 121.

Damaging
freight with
intent to
steal contents.

Drinking or
wasting
liquor.

Penalties.
Rev. Stat.
c. 121.

Interfering
with electric
wires, poles
etc., or
notices.

Rev. Stat.
c. 121.

or destroys any printed or written notice, direction, order, by-law or regulation of the Board or of the company or any section or extract from this Act or any other Act of this Legislature, attached or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall incur a penalty not less than \$15 and not exceeding \$100, recoverable under *The Summary Convictions Act*. R.S.O. 1914, c. 185, s. 293.

Each day's
contraven-
tion of
this Act,
or order
hereunder,
a distinct
offence.

296. When the violation of, or failure to comply with, any provision of this Act, or with any regulation, order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty by this Act or by any regulation made thereunder, each day's continuance of such violation or failure to comply shall constitute a new and distinct offence. R.S.O. 1914, c. 185, s. 294.

Act or omis-
sion of
officer, etc.,
deemed to
be act or
omission of
company.

297.—(1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the company shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of such company as well as that of the person.

Acts or
omissions by
company in
its corporate
character.

(2) Anything done or omitted to be done by the company, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons. R.S.O. 1914, c. 185, s. 295.

Punishment
for contra-
vention of
this Act,
etc., not
to exempt
company
from for-
feiture.

298. No penalty or punishment for a contravention of this Act or of the special Act by the company shall exempt the company from the forfeiture of the privileges or franchise conferred on it by such Acts, or by any agreement between the company and any municipal corporation if, by the provisions thereof or by law, the same be subject to forfeiture by reason of such contravention. R.S.O. 1914, c. 185, s. 296.

RECOVERY OF PENALTIES.

Penalties
to be a first
charge on
railway, etc.,
of company.

299. If any company has been adjudged to pay a penalty under this Act such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company. R.S.O. 1914, c. 185, s. 297.

300. No prosecution shall be had against any company or any municipal corporation for any penalty under this Act where the penalty may exceed \$100 without the leave of the Board being first obtained. R.S.O. 1914, c. 185, s. 298.

Prosecution
for penalty
exceeding
\$100.

301. All penalties incurred under any of the sections of this Act, unless otherwise provided, may be recovered by action in the name of His Majesty by the Attorney-General of Ontario; and all penalties recovered under this Act shall, unless otherwise herein expressly provided, be paid to the Treasurer of Ontario to the credit of the Consolidated Revenue Fund. R.S.O. 1914, c. 185, s. 299.

Recovery
of penalties
by action.

Application
of penalties.

TRANSMISSION OF POWER ON RIGHT OF WAY.

302. Upon receiving authority in that behalf from the Lieutenant-Governor in Council, the Board, its officers, agents and servants may at all times enter upon the right of way of the company and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality, but the track and traffic, wires and poles of the company shall not be injured, removed or otherwise dealt with in the exercise of the powers hereby conferred except under and subject to any agreement which may be entered into between the Lieutenant-Governor in Council and the company. R.S.O. 1914, c. 185, s. 300.

Crown may
use right of
way for the
transmission
of power to
municipalities.

USE OF RAILWAY BY DOMINION GOVERNMENT.

303.—(1) His Majesty's mail, His Majesty's naval or military forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service shall at all times, when required by the Postmaster-General, the Commander of the Forces, or any person having the superintendence and command of any police force, and with the whole resources of the company if required, be carried on the railway on such terms and conditions and under such regulations as may be made by the Governor-General in Council or the Lieutenant-Governor in Council.

Provision as
to the carriage
of His Majesty's
mail, etc.

(2) The company shall, when required so to do by the Governor-General or Lieutenant-Governor, or by any person thereunto authorized by either of them, place any electric, telegraph and telephone lines, and any apparatus and operators which it has, at the exclusive service of his Government, receiving thereafter reasonable compensation for such service. R.S.O. 1914, c. 185, s. 301.

Government
to have
exclusive
use of
telegraph.

CONVEYANCES OF LAND.

Conveyances
of land to
company.

304. Conveyances of land to the company, for the purposes of and powers given by this Act, made in the form set forth in Schedule "A" to this Act or to the like effect, shall be sufficient conveyance to such company, its successors and assigns of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same; and such conveyances shall be registered in the same manner, and upon such proof of execution as is required under the registry laws of Ontario. R.S.O. 1914, c. 185, s. 302; 1918, c. 30, s. 5.

SCHEDULE "A."

(Section 304.)

Know all men by these presents that I (or we) (*insert the name or names of the vendor or vendors*) in consideration of dollars paid to me (or us) by The Railway
Company, the receipt whereof is hereby acknowledged, do grant and convey unto the said company, and I (or we) (*insert the name or names of any other party or parties*) in consideration of Railway
dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the land*) the same having been selected and laid out by the said company for the purpose of its railway, to hold with the appurtenances unto the said The
Company, their successors and assigns forever (*here insert any other clauses, covenants and conditions required*), and I (or we) the wife (or wives) of the said do hereby bar my (or our) dower
in the said lands.

As witness my (or our) hand and seal (or hands and seals), this
day of one thousand nine
hundred and
Signed, sealed and delivered
in the presence of

R.S.O. 1914, c. 185, Sched. "A."
